



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JSR  
Docket No. 1430-11  
17 March 2011

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 18 Jan 11 w/attachments  
(2) Copy of Subject's fitrept  
for 10 Oct 06 to 21 Jun 07  
(3) HQMC RCT memo dtd 8 Mar 11  
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected by removing his failures of selection by the Fiscal Year (FY) 2009, 2010 and 2011 Reserve Colonel Selection Boards.

2. The Board, consisting of Messrs. Hedrick, W. Hicks and Spooner, reviewed Petitioner's allegations of error and injustice on 17 March 2011, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (2) is a copy of the adverse fitness report the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board has directed removing from Petitioner's record. This report was entered in his record on 5 September 2007 and

removed on 23 September 2010. The promotion boards in question met on 23 October 2007, 15 October 2008 and 9 September 2009, respectively.

c. In correspondence attached as enclosure (3), the HQMC office with cognizance over the subject matter of Petitioner's request has commented to the effect that it has merit and warrants favorable action, as the later removed fitness report was considered by the FY 2009, 2010 and 2011 promotion boards. That office stated that the report was not considered by any of the other promotion boards by which Petitioner has failed of selection (FY 2005 through 2008 and 2012).

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of enclosure (3), the Board finds the existence of an injustice warranting the following corrective action:

RECOMMENDATION:


a. That Petitioner's naval record be corrected by removing his failures of selection by the FY 2009, 2010 and 2011 Reserve Colonel Selection Boards, leaving in his record his failures of selection by the FY 2005 through 2008 and 2012 Reserve Colonel Selection Boards.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder

  
JONATHAN S. RUSKIN  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

  
W. DEAN PFEIFFER  
Executive Director