



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

HD:hd

Docket No: 06365-99

11 February 2000

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

Subj: LT [REDACTED], USN [REDACTED]
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 4 Oct 99 w/attachments
(2) PERS-85 memo dtd 11 Jan 00
(3) 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 to show the lineal position, date of rank, and effective date in the grade of lieutenant he would have received, had he been selected for promotion to that grade by the Fiscal Year (FY) 99 Line Lieutenant Selection Board, vice the FY 00 Line Lieutenant Selection Board. Initially, he specifically requested a date of rank and effective date of 31 May 1999. However, by memorandum of 7 February 2000, he amended his application to request a date of 1 June 1999. His current date of rank and effective date are 1 October 1999.

2. The Board, consisting of Messrs. Milner, Schultz and Swarens, reviewed Petitioner's allegations of error and injustice on 3 February 2000, 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. In correspondence attached as enclosure (2), the Navy Personnel Command (NPC) office with cognizance over the subject matter of this case has commented to the effect that Petitioner's request has merit and warrants favorable action. They recommend changing his lieutenant date of rank (and by implication, effective date) to 1 June 1999.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

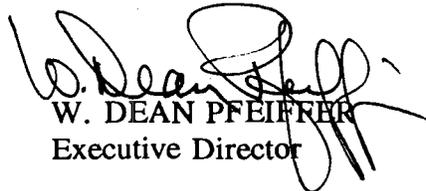
RECOMMENDATION:

- a. That Petitioner's naval record be corrected, where appropriate, to show his date of rank and effective date in the grade of lieutenant as 1 June 1999; and that his lineal precedence be adjusted accordingly.
 - b. That any material or entries inconsistent with 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 a copy of this Report of Proceedings be filed at an appropriate location in Petitioner's naval record, and that another copy of this report be returned to this Board, together with any material directed to be removed from Petitioner's record, for retention in a confidential file maintained for such purpose.
4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) 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



DEPARTMENT OF THE NAVY

**NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000**

6365-99
5420
85/0094
11 Jan 00

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: LT [REDACTED] A, USN, [REDACTED]

Encl: (1) BCNR File

1. Enclosure (1) is returned, recommending approval of LT [REDACTED] request to backdate his date of rank.
2. LT [REDACTED] is selected by the FY-00 Active Lieutenant Line Promotion Selection Board. His original Officer Appointment Acceptance and Oath of Officer (A&O) reflects a permanent grade date at commissioning of 31 May 1995. His record was correctly deferred before the FY-99 board due to having less than one year of active duty Naval service. [REDACTED] current date of rank is 1 October 1999.
3. In light of the circumstances presented by [REDACTED] in his letter, and based on our conclusion that he may not have been properly counseled regarding the deferment and right to waive the same, this office does not object to the backdated rank request based on "good faith."
4. Recommend his date of rank be backdated to 1 June 1999, commensurate with that of selection by the FY-99 board.

[REDACTED]
BCNR Liaison, Officer Promotions
and Enlisted Advancements Division