



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 2642-99

6 August 1999

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

Subj: CAPT [REDACTED], USMC, [REDACTED]  
REVIEW OF NAVAL RECORD

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

Encl: (1) DD Form 149 dtd 13 Apr 99 w/attachments  
(2) HQMC MMOA-4 memo dtd 18 May 99  
(3) HQMC MMPR memo dtd 21 May 99  
(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 failure before the Fiscal Year (FY) 1999 Captain Selection Board. He further requested that his record be corrected to show the lineal position, date of rank, and effective date in the grade of captain he would have been assigned had he been selected for promotion to that grade by the FY 1999 Captain Selection Board, vice the FY 2000 Captain Selection Board.

2. The Board, consisting of Ms. Davies and Messrs. McCulloch and Molzahn, reviewed Petitioner's allegations of error and injustice on 5 August 1999, 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. After Petitioner failed by the FY 1999 Captain Selection Board, the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) directed removing two fitness reports from his record. On 25 March 1999, after the FY 2000 Selection Board had convened on 2 March 1999, the PERB advised him that these reports would be removed. He appeared before the FY 2000 Selection Board in the status of having previously failed, but he was selected. He was promoted with a date of rank and effective date of 1 August 1999.

c. In correspondence attached as enclosure (2), the HQMC Officer Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4) has commented to the effect that Petitioner's request for backdating has merit and warrants favorable action. This advisory opinion also impliedly recommends removing his failure of selection.

d. In correspondence attached as enclosure (3), the HQMC Promotion Branch (MMPR) has advised that had Petitioner been selected by the FY 1999 Captain Selection Board, he would have received a date of rank and effective date of 1 September 1998.

**CONCLUSION:**

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (2) and (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 failure by the FY 1999 Captain Selection Board.

b. That Petitioner's naval record be further corrected, where appropriate, to show his date of rank and effective date in the grade of captain as 1 September 1998; and that his lineal precedence be adjusted accordingly.

c. 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.

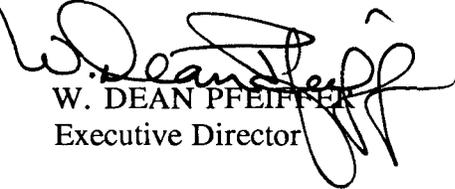
d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. 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*  
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  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

2642-99

IN REPLY REFER TO:

1600  
MMA-4  
18 May 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR PETITION FOR FIRST LIEUTENANT [REDACTED]  
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of  
First Lieutenant [REDACTED]  
[REDACTED] USMC of 14 May 99

1. Recommend approval of First Lieutenant [REDACTED] implied request for backdating his date of rank to captain.
2. Per the reference, we reviewed First Lieutenant [REDACTED] record and petition. He failed selection on the FY99 USMC Captain Selection Board. Subsequently, he petitioned the Performance Evaluation Review Board (PERB) for removal of the Semi-Annual fitness report of 960629 to 961231 and the Change of Reporting Senior report of 970101 to 970626. The PERB directed the removal of both reports on 990325. The FY00 USMC Captain Selection Board convened 990302 and First Lieutenant [REDACTED] was selected from above the primary zone. He implies a request for backdating his date of rank to captain.
3. In our opinion, the record was *slightly more competitive* as it appeared before the FY00 Board than when it appeared before the FY99 Board due to the addition of three additional fitness reports documenting strong performance. However, had the PERB action taken place prior to the convening of the FY99 Board, we believe First Lieutenant [REDACTED] record would have been *substantially* more competitive. Therefore, we recommend approval of First Lieutenant Bradley's implied request for backdating his date of rank to captain.

Subj: BCNR PETITION FOR FIRST LIEUTENANT J [REDACTED]  
[REDACTED] USMC

4. Point of contact is Lieutenant Colonel E [REDACTED]  
[REDACTED]



Lieutenant Colonel, U. S. Marine Corps  
Head, Officer Counseling and  
Evaluation Section  
Officer Assignment Branch  
Personnel Management Division



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
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264299

IN REPLY REFER TO:  
1412/1  
MMPR  
21 MAY 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD OF CORRECTION OF  
NAVAL RECORDS

Subj: ADVISORY OPINION IN THE CASE OF FIRST LIEUTENANT  
[REDACTED], USMC [REDACTED]

1. If First Lieutenant [REDACTED] request for backdating is approved, his date of rank and effective date will be 1 September 1998. This is the date of rank he would have received upon selection from the FY98 USMC Captain Selection Board.

[REDACTED]