



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

in

BJG
Docket No: 7953-06
8 February 2008

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

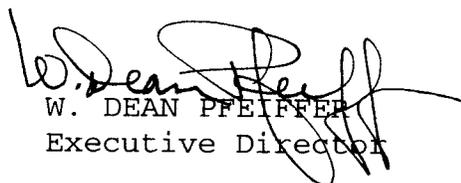
You initially requested a special selection board (SSB) for the Fiscal Year (FY) 1998 Staff Commander Selection Board. Since you have been promoted to commander pursuant to selection by the FY 1999 Staff Commander Selection Board, you are not eligible for SSB consideration. You further requested that your promotion to commander be backdated to reflect selection by the FY 1998 Staff Commander Selection Board, vice the FY 1999 promotion board.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 February 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions from the Navy Personnel Command, dated 3 and 9 March 2007, copies of which are attached. The Board also considered your counsel's rebuttal letter dated 27 April 2007.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In light of paragraph 2.d of the advisory opinion dated 3 March 2007, the Board found that the FY 1998 promotion board did not consider your religious affiliation; and therefore the violation, if any, of the establishment clause of the First Amendment or the equal protection component of the due process clause of the Fifth Amendment arising from inclusion of the faith identifier code in each candidate's record for that promotion board was a harmless error in your case. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

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W. DEAN PFEIFFER
Executive Director

Enclosures

Copy to:
