



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

BJG  
Docket No: 3844-07  
13 August 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 requested, in effect, removing the fitness report for 1 June to 27 July 2005 and 25 July 2005 to 14 February 2006, the nonjudicial punishment of 25 January 2006, and all documentation of your proceedings before a board of inquiry.

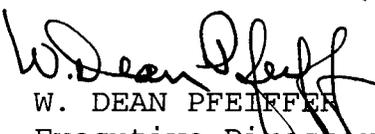
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 7 August 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 reports of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 24 April 2007 and 11 March 2008, and the advisory opinion from the HQMC Military Law Branch, Judge Advocate Division (JAM3), dated 4 September 2007, copies of which are attached. The Board also considered your counsel's letter dated 27 August 2007 with enclosure, your letter dated 9 November 2007, Lieutenant Colonel H---'s letter of 16 March 2008, the Commanding Officer, Marine

Fighter Attack Training Squadron's letter dated 25 March 1988,  
and Lieutenant Colonel K---'s letter dated 30 March 2008.

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 this connection, the Board substantially concurred with the comments contained in the reports of the PERB and the JAM3 advisory opinion. The Board was unable to find the officer who conducted the investigation underlying your nonjudicial punishment had a conflict of interest or was biased against you. The Board was likewise unable to find the investigation reflected misleading information, or that your command relied on treatment decisions of medical personnel not authorized to make such decisions. In view of the above, 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,

  
W. DEAN PFEIFFER  
Executive Director

Enclosures

Copy to: 