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

BJG
Docket No: 6109-07
5 December 2008

[REDACTED]

[REDACTED]

This is in reference to your application dated 3 April 2007 with enclosures and endorsement dated 11 May 2007, seeking reconsideration of your previous application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. Your previous case, docket number 3328-06, was denied on 26 October 2006.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 December 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, and the Board's files on your prior cases, docket numbers 8582-05 and 3328-06. In addition, the Board considered the memorandum from the Headquarters Marine Corps Performance Evaluation Review Board, Personnel Management Division (MMER), dated 27 June 2007, a copy of which is attached.

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

concurrent with the comments contained in the memorandum from MMER. The Board found the mark in section A, item 7.b ("Recommended for Promotion - No") of the contested fitness report was properly based on your noncompliance with physical standards, not your medical condition. The Board found it a harmless error that the reporting senior's (RS's) wording concerning this mark did not exactly match any of the options prescribed in the applicable directive. The Board found the RS's comments adequately explained the entry of "NMED" (did not take or complete physical fitness test (PFT), not medically qualified) in section A, item 8.b ("PFT"). The Board noted that the statement of Master Gunnery Sergeant Y--- dated 6 December 2006, enclosure (8) to your letter of 3 April 2007, reflects you did not retake the PFT and receive a first class score of 219 until 22 November 2004, well over 30 days after you had been found to be out of compliance with weight/body fat standards. Finally, the Board further noted that even if you had achieved that score on 27 August 2004, when you were medically cleared, the PFT still would have been over 30 days after your body composition was measured, so you still would not have been in compliance with weight/body fat standards for the reporting period in question. In view of the above, your application has again 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

Enclosure