



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

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BJG
Docket No: 7162-07
3 July 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.

It is noted that the Commandant of the Marine Corps (CMC) has modified the contested fitness report for 30 June to 20 October 2006 by changing section A, item 3.a (occasion) from "CD" (change of duties) to "TR" (transfer); changing the ending date from 20 October 2006 to 15 November 2006; marking section A, item 6.a to show you were the subject of commendatory material; and changing the pistol qualification code in section A, item 8.a, from "N" (not required) to "E" (expert). CMC also directed removing the contested report for 21 October to 15 November 2006.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 July 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 report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 30 July 2007, a copy of which is attached. The Board also considered your rebuttal letters dated

21 August 2007 with enclosures, 27 August 2007 with enclosures and 16 November 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 this connection, the Board substantially concurred with the comments contained in the report of the PERB. The Board found that when it was determined the previous reporting senior (RS) had lost professional objectivity, your commanding general had the authority, under Marine Corps Order (MCO) P1610.7F, paragraph 2010.6.d, to modify the reporting chain by making Colonel T--- your RS. The Board was unable to find Colonel T--- did not properly establish himself as your new RS. With due regard to the list of accomplishments you provided, the Board was unable to find Colonel T--- gave you an evaluation less favorable than what you deserved or that he felt compelled to justify your having been reassigned. The Board particularly noted that the report he submitted differed greatly from the rejected report submitted by Lieutenant Colonel J---, which was adverse. Finally, the Board found it an immaterial error that section I (RS's "Directed and Additional Comments") of the contested report did not include the comment, required by MCO P1610.7F, paragraph 4012.4.b(7), acknowledging the change in your reporting chain. In view of the above, your application for relief beyond that effected by CMC 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

Enclosure