



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

BJG

Docket No: 8556-07

31 October 2008

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This is in reference to your application dated 3 April 2007 with attachment, 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. You again requested removing the fitness report for 9 August 2003 to 6 January 2004. Your previous case, docket number 8539-06, was denied on 19 October 2006. You also made a new request to remove the fitness report for 26 to 27 February 2004.

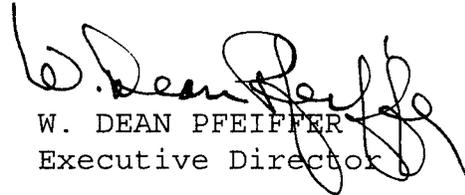
It is noted that the Commandant of the Marine Corps (CMC) has directed removing the contested fitness report for 26 to 27 February 2004.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 October 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 your prior case file. In addition, the Board considered the reports of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 15 January and 30 April 2008, and a memorandum for the record dated 23 October 2008, copies of which are 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 concurred with the comments contained in the report of the PERB dated 30 April 2008 in concluding the remaining contested fitness report should stand. The Board was unable to find this report was used as a counseling or disciplinary tool. In view of the above, the Board again voted to deny relief beyond that effected by CMC. 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