



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

mn

JSR
Docket No. 10174-07
22 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 requested, in effect, that you be promoted to gunnery sergeant, pursuant to your selection by the Fiscal Year (FY) 2006 Gunnery Sergeant Selection Board. You also impliedly requested removing from your record any documentation of the delay of your promotion and removal from the FY 2006 Gunnery Sergeant Selection List.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 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 opinion furnished by Headquarters Marine Corps, dated 19 December 2007, a copy of which is attached.

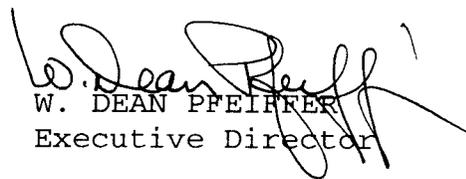
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion.

The Board was unable to find you were not given 10 days to reply to your commander's comments concerning the proposed revocation of your selection for promotion or that your ability to respond effectively was prejudiced in any way. Although you received no disciplinary action and the result of your administrative separation board proceedings was that you were retained, the Board was unable to accept your assertion that you "have never admitted to behaving inappropriately..." In this regard, the Board particularly noted that at page 26 of enclosure (9) to your application (transcript of administrative separation board proceedings), you do admit to what the Board felt could fairly be described as inappropriate sexual contact with the spouse of another Marine, which was the basis for the revocation of your selection.

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