



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

JSR

Docket No: 2208-08

15 May 2008

[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 May 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 3 March 2008, a copy of which is attached, and your undated reply.

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.

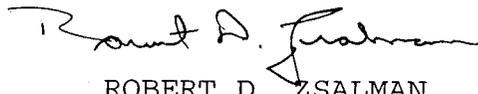
Concerning your allegation you were never counseled that your performance was substandard, the Board noted the contested fitness report does not reflect your performance was substandard in any way. The Board was unable to find the report was influenced by your having submitted for retirement, or that it was based on a period of about 40 days. The Board was likewise

unable to find your award of the Meritorious Service Medal inconsistent with the report at issue, noting the report specifically acknowledged the medal. Finally, if you are correct that the reporting senior was relieved because of unspecified "inappropriate behavior with enlisted Marines," the Board was unable to find this would call into question his ability to render a fair and accurate performance evaluation, noting the reviewing officer concurred with the appraisal he gave you.

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,



ROBERT D. ZSALMAN
Acting Executive Director

Enclosure