



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

HD:hd
Docket No. 04642-08
12 December 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, removing the "Must Promote" (second best of five possible marks in block 45 ("Promotion Recommendation-Individual") performance evaluation report for 16 March to 15 November 2005, signed by the reporting senior on 30 November 2005 and by you on 14 December 2005, and filing in its place the "Early Promote" (best possible mark in block 45) performance evaluation report for the same period, signed by the same reporting senior on 20 November 2005 and by you on 28 November 2005, a copy of which you provided with your application

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 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. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 19 June 2008, 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 particularly noted that the contested report was submitted after the report you want filed in its place. A previous version of a performance evaluation report, not submitted by the reporting senior for file in a member's record, is superseded by the later report of record and is, therefore, invalid. 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

Enclosure