

20



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

HD:hd
Docket No. 06520-08
20 October 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 your commander date of rank and effective date, 1 October 2008, be adjusted to reflect selection by the Fiscal Year (FY) 08 Line Commander Selection Board, vice the FY 09 Line Commander Selection Board.

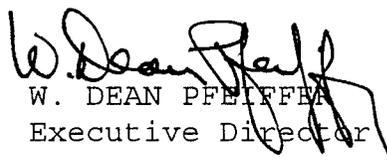
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 October 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 31 July 2008, a copy of which is attached. The Board also considered your letter dated 6 October 2008.

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 duly noted enclosure (7) to your request for a special selection board, but felt you should have verified that the fitness report in question would be provided to the FY 08

promotion board. 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



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

5420
PERS-80/1512
31 July 2008

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATION IN CASE OF
██

Encl: (1) BCNR File 06520-08

1. Enclosure (1) is forwarded recommending disapproval.
2. ██████████ request to have his date of rank restored to the permanent grade of Commander consistent with a date had he been selected by the FY-08 Active O5 Line Selection Board vice FY-09 board is without merit. ██████████ asserts that the failure of his latest FITREP to appear before the board caused his failure to select at the FY-08 board and uses the fact that he was selected at the FY-09 board as evidence of such. There is no evidence provided that the FY-08 Board would have selected ██████████ had this FITREP been provided to them for consideration.
3. Further, ██████████ states in his letter dated 28MAY08 that he had actual knowledge that there was a discrepancy with his 31OCT06 FITREP prior to the convening of the FY-08 board. Although he had sufficient time to submit the corrected FITREP for consideration by the FY-08 board via a letter to the Board President, he opted not to do so.
4. ██████████ has provided no proof the board deprived his record of a fair and impartial consideration. He was properly considered in accordance with the precept of the FY-08 Active O5 Line Selection Board. The selection process is extremely competitive and in the Board's opinion, ██████████ record was not best and fully qualified. Recommend disapproval of his request.

E. B. Anderson
E. B. ANDERSON

Director, Officer Career
Progression Branch