



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

JSR
Docket No: 6748-08
25 June 2009

[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 adjusting your gunnery sergeant date of rank and effective date from 1 September 2007 to reflect selection by the Fiscal Year (FY) 2005 Gunnery Sergeant Selection Board, rather than the enlisted remedial selection board for the FY 2007 Gunnery Sergeant Selection Board.

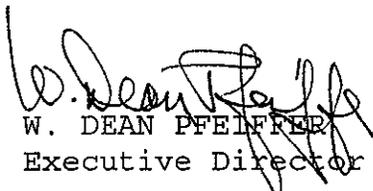
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 June 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, the Board's file on your prior case (docket number 2803-07), your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions from Headquarters Marine Corps dated 10 November 2008 and 31 March 2009, 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

concluded with the comments contained in the advisory opinion dated 31 March 2009 in concluding that backdating to neither FY 2005 nor 2006 was warranted, as it was unable to find your selection by either promotion board, even with a corrected record, would have been probable. In this regard, the Board also noted that the contested adverse fitness report for 20 November 1998 to 31 March 1999 was merely modified by deleting certain narrative, not completely removed, and that your request to remove the service record page 11 ("Administrative Remarks (1070)") entries dated 23 July 1996 and 23 April 1997 was denied, so these unfavorable matters were properly in your record for the FY 2005 and 2006 promotion boards, by which you failed of selection, and the FY 2008 promotion board, by which you were selected. Finally, the Board noted that while the weight control entries for 8 July to 14 August 1996 and 23 April to 25 August 1997 were removed before the FY 2008 promotion board, by which you were selected, convened on 15 April 2008, the Board did not direct removing the page 11 entry dated 24 March 1999 until 4 September 2008, after that promotion board had adjourned on 6 June 2008. 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