



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

BJG
Docket No: 8104-08
2 February 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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 27 January 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, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions from Headquarters Marine Corps (HQMC), dated 4 January and 19 November 2008, and the memorandum for the record (MFR), dated 21 January 2009, copies of which are attached. The Board also considered your rebuttal letter dated 11 February 2008, with enclosures

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 opinions from HQMC and the information reflected in the MFR in concluding that the contested service record page 11b ("Administrative Remarks (1070)") counseling entry dated 17 August 2006 should

stand. The Board reviewed Force Order 5320.1, which you paraphrased, and found no provision expressly prohibiting a reserve unit commander from issuing a page 11 counseling entry to an inspector-instructor Marine assigned to the unit or from forwarding such an entry to HQMC for filing in that Marine's Official Military Personnel File. Finally, the Board was unable to find the contested entry was factually inaccurate. Since the Board found the entry should stand, it had no grounds to remove either of your failures of selection by the Fiscal Year 2008 and 2009 Major Selection Boards, or set aside your discharge from the Regular Marine Corps on 1 August 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

Enclosures