



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

JSR
Docket No: 8226-08
28 August 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.

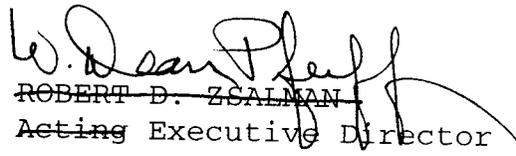
It is noted that the Commandant of the Marine Corps (CMC) has directed modifying your performance record, as you requested, by removing, from the fitness report for 11 March to 1 July 1997, the reviewing officer (RO) comments "Young officer who joined us under tough circumstances. Had the moral courage and strength of character to pick himself up and get back to being a productive Marine." and completely removing, for the fitness report for 2 July to 15 December 1997, the RO's certification.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 August 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 (HQMC) Performance Evaluation Review Board (PERB), dated 5 August 2008, and the advisory opinion from the HQMC Officer Counseling Section (MMAA-4) dated 18 August 2008, 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 concurred with the comments contained in the MMOA-4 advisory opinion in finding your selection by the Fiscal Year 2009 Lieutenant Colonel Selection Board would have been definitely unlikely, even if your performance record had been corrected in accordance with the CMC action. Accordingly, your application for relief beyond that effected by CMC 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