

202



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

JSR
Docket No: 8821-08
4 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, that the fitness reports for 7 August 2006 to 31 May 2007 and 1 June 2007 to 23 May 2008 be modified, in accordance with the reporting senior's (RS's) letter dated 25 July 2008, by raising the marks in sections D.1 ("Performance"), E.2 ("Effectiveness under Stress"), F.4 ("Ensuring Well-being of Subordinates") and G.2 ("Decision Making Ability") from "D" (fourth best of seven possible marks) to "E" (third best).

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 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 report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 12 September 2008, a copy of which is attached, and your letter of 10 November 2008 with enclosures.

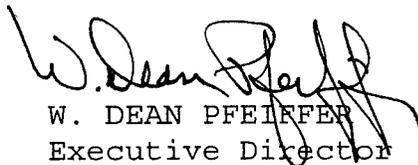
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material

error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. While the Board recognized the RS's letter was submitted only two months after he had assigned the original marks at issue on 20 May 2008, the Board was unable to find the proposed higher marks were more accurate or fair. 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.

Although the Board voted not to modify the fitness reports in question, you may submit the RS's letter to future selection boards.

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