



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

HD:hd
Docket No. 08833-08
12 December 2008

[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 11 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 advisory opinion furnished by the Navy Personnel Command (NPC) dated 16 October 2008, a copy of which is attached. The Board also considered your letter dated 2 December 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 opinion, except to note that mid-term counseling was required, since November 2007, the month in which it was due, fell within the reporting period. In this regard, the Board was unable to find you did not receive adequate counseling concerning perceived deficiencies. The Board generally does not grant relief on the basis of an alleged absence of counseling, since counseling takes many forms, so the recipient may not recognize it as such

when it is provided. The Board found the fitness report at issue adequately addressed the command climate and explained the decline in your promotion recommendation.

The statements you provided from other officers did not convince the Board the reporting senior was incorrect in concluding there were "significant command climate issues" that supported your early relief. The Board was unable to find the contested report reflected pressure from the SURFOR (Surface Forces) staff to have your case resolved before Vice Admiral G---'s retirement. The Board found it would be unobjectionable if, as you allege, the reporting senior talked to officers who had been your subordinates in an effort to obtain information relevant to your fitness report. The Board was unable to find he ever lost objectivity toward you. Concerning your objection that your relief on 28 February 2008 was effected two weeks before the command investigation of complaints against you had been completed, the Board noted the fitness report at issue was not submitted until 8 May 2008, well after the investigation's completion. The Board found nothing improper or unjust in the reporting senior's having considered allegations against you from individuals you had not had an opportunity to confront, if that did occur as you allege. The Board was unable to find the investigation invalidated the report at issue, since you provided no copy of the investigation report or the summary you state you were allowed to read after your relief. The Board was likewise unable to find you were not afforded any chance to improve the wardroom climate of your ship, nor could it find equal opportunity, complaint resolution and grievance procedures were not followed. The Board could not find the reporting senior decided to relieve you before having given you a chance to defend yourself, or that you got no help from your wardroom. Finally, you may submit your statement of 16 May 2008, enclosure (1) to your letter of 2 December 2008, to NPC (PERS-311) for file in your record with the contested fitness report.

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