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

HD:hd  
Docket No. 09966-08  
22 December 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. Your previous request, docket number 01606-99, that the fitness report for 1 November 1996 to 30 June 1997 be corrected from "Promotable" (third best of five possible marks) to "Must Promote" (second best) or removed and that the report for 1 July to 31 October 1997 be removed, was denied on 19 October 2000.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 December 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, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Office of the Chief of Naval Operations (N134) dated 3 April 2009, the Navy Personnel Command (NPC) (PERS-32) dated 7 May 2009, NPC (PERS-00J) dated 10 June 2009 with enclosure and NPC (PERS-80) dated 7 October 2009, copies of which are attached. The Board also considered your counsel's letters dated 10 September 2009, 20 September 2009 with enclosure and 16 November 2009.

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. Since the Board found no defect in your performance record, it had no grounds to recommend removing either of your failures of selection by the Fiscal Year 09 and 10 Line Captain Selection Boards. 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

Copy to:  
