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

BJG  
Docket No: 9991-08  
25 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 20 February 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 report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 15 October 2008, a copy of which is attached.

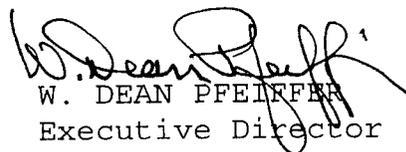
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB.

The Board found nothing objectionable in the reporting senior (RS)'s use of the word "flippant" in section I (RS's "Directed and Additional Comments") of the contested fitness report. The Board noted that the reviewing officer (RO) acknowledged, in section K.4 (RO's comments), that you "did not receive a written counseling from the Battalion Commander on 20070304," as the RS had stated you did, and that this counseling "in fact, was only a verbal counseling." However, the Board further noted that the RO went on to say "The verbal counseling was warranted though due to yet another lapse of judgment and overall failure to perform on a consistent level." The Board found the RS made no express reference to your nonpunitive letter of caution, noting that reference to the underlying facts that gave rise to its issuance was not prohibited. Finally, the Board was unable to find the RS was incorrect in stating, in section I, that you were counseled about wearing the appropriate uniform of the day. In this regard, the Board generally does not grant relief on the basis of an alleged absence of counseling, as counseling takes many forms, so the recipient may not recognize it as such when it is provided.

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

Enclosure