



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

JSR  
Docket No: 10175-08  
26 February 2009

[REDACTED]

[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 removing the fitness report for 1 June 2005 to 11 April 2006 and the Headquarters Marine Corps (HQMC) routing sheet dated 10 October 2006 with enclosures (documentation of the termination of administrative separation proceedings in your case). You also impliedly requested removing your failure of selection by the Fiscal Year (FY) 2010 Lieutenant Colonel Selection Board.

It is noted that the Commandant of the Marine Corps (CMC) has directed modifying the contested fitness report by removing, from section K.4 (reviewing officer's (RO's) comments), "CSACC [Consolidated Substance Abuse Counseling Center] determined his prognosis for rehabilitation to be poor and the MRO [Marine reported on] has clearly demonstrated deficiencies in several key attributes essential to a commissioned officer in the Marine Corps."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 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,

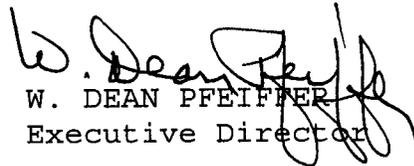
regulations and policies. In addition, the Board considered the advisory opinion from the HQMC Judge Advocate Division (JAM5) dated 19 September 2008 and the report of the HQMC Performance Evaluation Review Board, dated 20 October 2008, copies of which are attached. Finally, the Board considered the Chronological Record of Medical Care dated 25 April 2008 and a USMC Fitness Report Addendum Page (your reply of 3 October 2006 to section K (RO's marks and comments) of the contested fitness report), both of which were provided with your e-mail of 17 February 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 JAM5 advisory opinion and the report of the PERB. Regarding the recommendation, in paragraphs 4.b.ii and 5 of the JAM5 advisory opinion, to amend the commanding officer's/RO's letter of 4 May 2006 (among the enclosures to the HQMC routing sheet dated 10 October 2006) by removing the words "for his civilian conviction," the Board noted that if you desire this modification, you may submit a request to HQMC (MMSB), citing the JAM5 advisory opinion. The Board found this reference to a civilian conviction, by itself, would not have appreciably reduced your competitiveness before the FY 2010 Lieutenant Colonel Selection Board. In view of the above, 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,

  
W. DEAN PFEIFFER  
Executive Director

Enclosure

Copy to:  
Mr. John E. King, III