



du

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

JSR
Docket No: 10207-08
11 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.

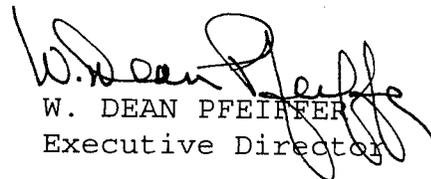
You requested removing the fitness report for 18 July to 20 December 2005. You also impliedly requested reconsideration of your previous application, docket number 5587-06, denied on 15 February 2007, to reinstate you on the Fiscal Year (FY) 2006 Master Gunnery Sergeant Selection List, promote you to master gunnery sergeant, and (by implication) remove the Commandant of the Marine Corps letter dated 26 May 2006 (Subject: Revocation of Selection from the FY 2006 Master Gunnery Sergeant Selection Board).

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, the Board's file on your prior case, 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 20 October 2008, a copy of which is attached, and your undated reply to the PERB report 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 in concluding the contested fitness report should stand. The Board was unable to find the reporting senior and third sighting officer were guilty of violating either Article 81, Uniform Code of Military Justice, conspiracy, or Article 133, conduct unbecoming an officer and a gentleman. Since the Board found insufficient basis to remove or amend the fitness report at issue, it had no grounds to grant any of the relief requested in your previous case. 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