



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

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BJG
Docket No: 10350-08
4 March 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 completely removing the fitness report for 1 April 2005 to 6 January 2006. It is noted that the Commandant of the Marine Corps (CMC) has directed modifying the report by removing, from section I (reporting senior (RS)'s "Directed and Additional Comments"), "Recently he was given a Page 11 on his incompetence due to his lack of knowledge in his MOS [military occupational specialty] and weak leadership skills." and removing, from your rebuttal dated 17 January 2006, "On January 9, 2006 I received a page 11 for the mistakes that I've [sic] in the past regarding my MOS."

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 report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 23 October 2008, a copy of which is

attached. The Board also considered your rebuttal letter dated 17 November 2008 with enclosure.

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.

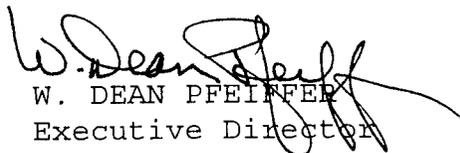
The Board was unable to find your billet description was not established until three months into the reporting period. The Board was likewise unable to find the justification for the adverse marks of "A" the reporting senior (RS) assigned in section D ("Mission Accomplishment") of the contested fitness report addressed matters outside your billet description. The Board found no inconsistency between section C ("Billet Accomplishments") of the report and the derogatory comments in section I. The Board could not find the reviewing officer (RO) lacked sufficient observation to evaluate you, noting observation need not be direct. The Board found no inconsistency between the adverse mark of "Unsatisfactory" the RO assigned in section K.3 (RO's "Comparative Assessment") and the section K.4 (RO's comments) comment that you have "the potential to redress [your] poor performance and to succeed." Finally, the supporting statement you provided from First Sergeant H--- did not persuade the Board that you deserved a more favorable fitness report or that the RO lacked sufficient observation.

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