



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

JSR
Docket No: 10444-08
29 January 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 29 January 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 Headquarters Marine Corps (HQMC) dated 9 September 2008 and the report of the HQMC Performance Evaluation Review Board, dated 27 October 2008, copies of which are attached. The Board also considered your letter of 12 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 advisory opinion and the report of the PERB, except to note your letter of 12 November 2008 did provide an earlier version, dated 20 September 2006, of the contested fitness report dated 22 September 2006, showing a mark of "C" (fifth best of seven possible) in section D.2 ("Proficiency"), whereas the report of record marked you "D"

(fourth best); "C" in section F.3 ("Setting the Example"), whereas the report of record marked you "B" (sixth best); and "B" in section G.3 ("Judgment"), whereas the report of record marked you "A" (lowest). The Board found that the report of record superseded the previous version. 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