



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

JSR
Docket No. 12000-08
1 July 2009

[REDACTED]

This is in reference to your application dated 17 November 2008, seeking reconsideration of your previous application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. Your previous case, docket number 00727-08, was denied on 23 October 2008.

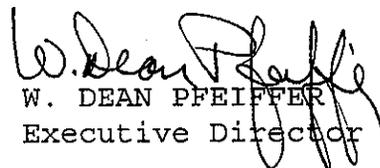
You have again requested that your naval record be corrected to show you accepted your commission in the Marine Corps Reserve on 4 December 2005, vice 15 June 2007; and change your captain date of rank from 1 February 2003 to 1 April 2001. You have added a new request for consideration by a special selection board (SSB). Because you have been selected by the Fiscal Year 2010 Reserve Major Selection Board, you are no longer eligible for SSB consideration.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, reconsidered your case on 29 January 2009 and completed its deliberations on 1 July 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, the Board's file on your prior case, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by Headquarters Marine Corps dated 22 January 2009 and 26 February 2009 with enclosures, copies of which are 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 advisory opinion dated 26 February 2009. In this regard, the Board noted that the favorable advisory opinion dated 22 January 2009 did not acknowledge the information reflected in enclosures (2), (3), (4) and (9) of the advisory opinion dated 26 February 2009. In view of the above, the Board again voted to deny relief. 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



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL RD.
QUANTICO, VIRGINIA 22134-5103

IN REPLY REFER TO:

1600
CMT

JAN 22 2009

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Subj: RESERVE AFFAIRS DIVISION ADVISORY OPINION ON BCNR
APPLICATION; CASE OF [REDACTED]

Ref: (a) DD Form 149 dtd 17 Nov 2008
(b) BCNR request for advisory opinion of Jan 13, 2009
(c) Title 10 United States Code
(d) SECNAVINST 1420.1B
(e) MCO P1001R.1J
(f) MCO P1080.20

Encl: (1) CMT ltr and address label to [REDACTED]

1. Per references (a) and (b), we have reviewed the petitioner's request for the adjustment of his record to reflect that he was released from active duty on 3 Dec 2005 and began his reserve duty on the same date as well as the request that his date of rank remain 1 Apr 2001.

2. The petitioner provided new documentary evidence to substantiate his claim that he requested a reserve commission upon his release from active duty. As such, we recommend the petitioner's requests in regard to his date of rank and lineal control number be granted.

3. Reserve Affairs takes no official position on the petitioner's request for a remedial promotion board. Reserve Affairs reiterates (as previously stated in the advisory opinion dated 16 May 2006) that the petitioner's request for a remedial promotion board may not be in his best interest.

Subj: RESERVE AFFAIRS DIVISION ADVISORY OPINION ON BCNR
APPLICATION; CASE OF [REDACTED]

4. Point of contact at Reserve Affairs is [REDACTED]
commercial [REDACTED]

[REDACTED]
[REDACTED]
By direction