



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

JSR  
Docket No: 12242-08  
25 June 2009

[REDACTED]

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[REDACTED]

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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 adjusting your staff sergeant date of rank and effective date to reflect selection by the Calendar Year (CY) 2003 Staff Sergeant Selection Board, rather than the Fiscal Year (FY) 2008 Staff Sergeant Selection Board.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 25 June 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 opinions from Headquarters Marine Corps dated 11 February and 29 March 2009, 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 opinions in concluding that your promotion should not be backdated, as none of the three fitness reports whose removal has been

directed was in your record for the CY 2003 or the FY 2004 promotion board, convened on 19 July 2004; and it was unable to find your selection by the FY 2005, 2006 or 2007 promotion board would have been probable, even with a corrected record. In this regard, the Board noted that while the contested report for 1 to 15 March 2005 was entered in your record on 18 July 2005, before the FY 2005 promotion board convened on 19 July 2005, and the report for 1 March to 1 July 2005 was entered on 11 August 2005, before that promotion board adjourned on 23 September 2005, the report for 2 July to 31 October 2005 was not entered until 24 July 2006, well after that board had adjourned. The Board did recognize that the service record page 11 entry dated 17 December 1999, reflecting your nonrecommendation for promotion to sergeant because of overweight was lined through, but without any initials as required for proper invalidation. 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