



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

BJG
Docket No: 1749-08
16 April 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.

You requested completely removing the fitness reports for 12 July to 31 December 2001 and 12 December 2003 to 6 July 2004. It is noted that the Commandant of the Marine Corps (CMC) has directed removing the report ending 31 December 2001 and modifying the report ending 6 July 2004 by removing, from section I (reporting senior's "Directed and Additional Comments"), all the material to which you objected: "With guidance"; "Adequately" and "Overall, I rate him 6 of 6 Captains [sic] in the Battalion [sic]."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 April 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 (HQMC) Performance Evaluation Review Board (PERB), dated 19 February 2008, and the advisory opinion from the HQMC Officer Counseling and Evaluation Section, Personnel Management Division (MMA-4), dated

9 March 2009, copies of which are attached. The Board also considered your rebuttal letter dated 6 April 2009.

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 further concurred with the advisory opinion from MMOA-4 in concluding your selection by the Fiscal Year 2008 Major Selection Board would have been definitely unlikely, had your record been corrected as CMC has directed. 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

Enclosures