



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

22

JSR
Docket No: 3613-08
19 June 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 removing the fitness report for 1 May 2004 to 20 March 2005 and your failures of selection by the Fiscal Year 2007 and 2008 Chief Warrant Officer 3 Selection Boards.

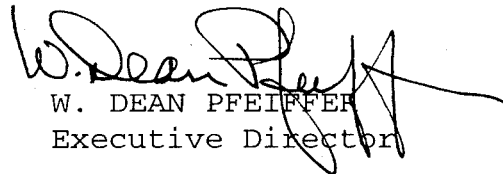
It is noted that the Commandant of the Marine Corps (CMC) has directed removing the contested fitness report.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 19 June 2008. 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 7 April 2008, and the advisory opinion from the HQMC Officer Counseling and Evaluation Section, Personnel Management Division (MMA-4), dated 9 April 2008, 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 from MMOA-4 in concluding your failures of selection for promotion should stand, as your selection would have been definitely unlikely in any event. Accordingly, 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



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3280 RUSSELL ROAD
QUANTICO, VA 22134-5103

IN REPLY REFER TO:

1610
MMER/PERB
APR 07 2006

From: Commandant of the Marine Corps

To: [REDACTED]

Subj: CORRECTION OF NAVAL RECORD

Ref: (a) Your DD Form 149 of 27 Nov 07
(b) MCO 1610.11C

1. Per the reference, the Performance Evaluation Review Board has reviewed allegations of error and injustice in your naval record. Having reviewed all the facts of record, the Board has directed that your naval record will be corrected by removing the following fitness report:

| <u>Date of Report</u> | <u>Reporting Senior</u> | <u>Period of Report</u> |
|-----------------------|-------------------------|---------------------------|
| 15 March 2005 | [REDACTED] | 20040501 to 20050320 (TD) |

2. There will be inserted in your naval record a memorandum in place of the removed report. The memorandum will contain appropriate identifying data concerning the report and state that it has been removed by direction of the Commandant of the Marine Corps and cannot be made available in any form to selection boards and reviewing authorities. It will also state that such boards may not conjecture or draw any inference as to the nature of the report or the events that may have precipitated it, unless such events are otherwise properly a part of the official record. The PES (the data base which generates your Master Brief Sheet) will be corrected accordingly.

FRANCES S. POLETO
By direction