



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

JSR
Docket No: 2684-09
5 November 2009

[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 removing the fitness report for 1 January to 31 December 2002. You also requested removing the weight control entry for 6 February to 6 August 2003, reference to your placement in the remedial physical conditioning program (RPCP), and the service record page 11 ("Administrative Remarks (1070)") entries dated 10 December 2002, 7 January 2003, 6 February 2003 and 4 March 2003.

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

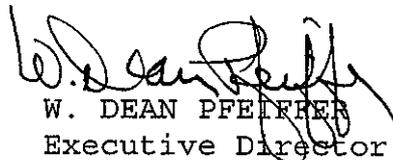
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 November 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 reports of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 7 May and 30 October 2009, the e-mail dated 22 October 2009 from the HQMC Performance

Evaluation Review Branch, and the advisory opinion from HQMC dated 4 June 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 opinion and the report of the PERB dated 7 May 2009 in concluding the contested weight control, RPCP and page 11 entries should stand. The Board was unable to find any of these entries were in reprisal for your request made early in 2002. 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

Enclosure