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

JSR
Docket No. 04049-09
17 December 2009

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This is in reference to your application dated 27 March 2009, 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 08315-08, was denied on 14 October 2008. You again request adjusting your gunnery sergeant date of rank and effective date from 1 July 2007 to 1 July 2005, to reflect selection by the Fiscal Year (FY) 2005 Gunnery Sergeant Selection Board, rather than the enlisted remedial selection board for FY 2007.

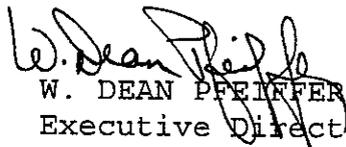
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, reconsidered your case on 17 December 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your letter, 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 from Headquarters Marine Corps (HQMC) dated 13 July, 16 September and 15 October 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. The Board was unable to find your selection by either the FY 2005 or 2006 Gunnery Sergeant Selection Board would have been probable, had your record not included the fitness report for 1 January to 24 April 2005 whose removal was later directed by the HQMC Performance Evaluation Review Board.

In this connection, the Board substantially concurred with the comments contained in the advisory opinion dated 15 October 2009. Accordingly, 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