

2



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

JSR
Docket No: 06382-09
4 February 2010

[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.

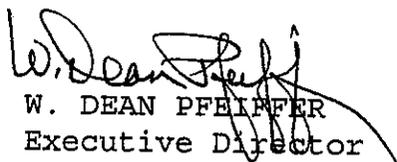
You requested removing the Headquarters Marine Corps (HQMC) Routing Sheet, undated, Subject: Inclusion of Adverse Matter in the Official Military Personnel File of [yourself] and associated documents. You further requested removing your failure of selection by the Fiscal Year (FY) 2010 Lieutenant Colonel Selection Board and, if necessary, FY 2011. Finally, you requested consideration by a special selection board (SSB). After you had submitted your application, you failed of selection by the FY 2011 Lieutenant Colonel Selection Board.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 February 2010. 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 HQMC dated 19 August 2009 with reference (h), 26 August 2009, 2 September 2009 and 30 November 2009 with enclosure, copies of which are attached, your counsel's letter dated 7 January 2010 with enclosures and his supplemental letter dated 11 January 2010.

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 dated 19 August and 30 November 2009 in concluding the contested documents should stand. The Board found you were afforded an opportunity to present your side of the adverse matter reflected in the documents at issue, and it was unable to find your side was not duly considered. You may submit to HQMC whatever statement or other material you want added to your record together with the documents in question. Since the Board found insufficient basis to remove those documents, it had no grounds to recommend removing either of your failures of selection to lieutenant colonel or granting you an SSB. 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

Copy to:
