



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

JSR
Docket No: 7587-09
6 August 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 4 February to 15 May 2006, 3 April to 2 July 2007, and 3 July to 13 October 2007. You further requested, if the report for 4 February to 15 May 2006 is not completely removed, that it be modified by removing, from section K.4 (reviewing officer's comments), "from an external perspective."

It is noted that the Commandant of the Marine Corps (CMC) has directed modifying the contested fitness report for 3 July to 13 October 2007 by removing, from section K.4, "Keep him serving as a Colonel of Marines."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 6 August 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 Performance Evaluation Review Board (PERB), dated 30 June 2009, a copy of which is attached, and your letter dated 30 July 2009 with enclosures.

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. Specifically concerning the contested report for 4 February to 15 May 2006, the Board did not consider the words "from an external perspective" likely to be misconstrued. Finally, the Board found your having received the Bronze Star for September 2006 to March 2007 and the Legion of Merit for October 2005 to October 2007 did not invalidate the reports at issue. 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