



dn

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

HD:hd  
Docket No. 07641-09  
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 reconsideration of your previous request (docket number 1647-07) to remove both the original and supplemental fitness reports for 1 March 2002 to 28 February 2003. The Board denied this request on 12 July 2007. You also added new requests to remove the fitness report for 1 February to 1 August 2001 and grant you a special selection board for the Fiscal Year 09 Staff Lieutenant Commander 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, the Board's file on your previous case, your naval record and applicable statutes, regulations and policies. In addition, the Board considered its file on your previous case, the advisory opinions furnished by the Navy Personnel Command dated 14, 23 and 28 October 2009, copies of which are attached. The Board also considered your counsel's letter dated 4 January 2010.

The Board noted that the Circuit Court for Escambia County, Florida Juvenile Division document of 24 June 2003, "Procedural Posture of this Case," stated "The Court finds the evidence of

domestic violence on the part of [you] to be equivocal." The Board did not consider this to amount to an exoneration of domestic abuse, nor did it consider this invalidated the substantiation of domestic abuse by the Family Advocacy Program Case Review Committee. The Board substantially concurred with the advisory opinion dated 23 October 2009 in concluding the contested fitness report for 1 February to 1 August 2001 should stand. The Board noted you may submit the reporting senior's letter of 20 March 2009 to future selection boards. Since the Board found no defect in your performance record, it had no basis to grant you a special selection board. 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

Enclosures

Copy to:  
