



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

DN

HD:hd
Docket No. 09849-09
12 March 2010

[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, in effect, that the removal of your name from the June 2007 and Fiscal Year (FY) 09 Active Duty Navy Lieutenant All-Fully-Qualified-Officers Lists (AFQOL's) be declared void; that you be reinstated to the June 2007 AFQOL; that you be promoted, in accordance with your selection for promotion by the June 2007 Active Duty Navy Lieutenant All-Fully-Qualified-Officers selection review, with back pay and benefits; that all documentation of and references to your removal from the June 2007 and FY 09 AFQOL's be removed from your record; and by implication, that your resignation of your commission on 31 December 2009 and reversion to enlisted status be set aside.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 March 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 and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command undated and dated 10 December 2009 with enclosures, copies of which are attached. The Board also considered your counsel's letter dated 16 February 2010 with attachments.

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. The Board was unable to find your name was removed from the reports of promotion boards, under title 10, United States Code, section 618, rather than from promotion lists, under title 10, United States Code, section 629. The Board was likewise unable to find your service was so exemplary that you should have been promoted, notwithstanding the matters on which your removal from the promotion lists was based. 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:
