



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

HD:hd
Docket No. 10904-09
17 June 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 correction of your record by adjusting your lieutenant date of rank and effective date from 1 October 2009 to 1 June 2009, to reflect selection by the Fiscal Year (FY) 09 Active Duty Navy Lieutenant All-Fully-Qualified-Officers selection review, vice FY 10, with all back pay and allowances and any entitlements due you as a result of this correction; and you impliedly requested removing your FY 09 failure of selection.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 17 June 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 opinion furnished by the Navy Personnel Command dated 12 November 2009, a copy of which is 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. In this connection, the Board substantially concurred with the advisory opinion. The Board observed that the regular fitness report for

1 March to 15 September 2008, in which you were recommended for promotion, could not have been considered in the FY 09 selection review, held on 1 June 2008. The Board noted your objection that a "special" fitness report was not submitted for consideration in the FY 09 selection review, however the Board found that your reporting senior was not permitted, under Bureau of Naval Personnel Instruction 1610.10A, enclosure (2), paragraph 3-9.a.(1) to submit a "special" report, as he was not a new reporting senior who had not written an "observed" report on you. 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