



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

JD

HD:hd
Docket No. 11528-09
3 April 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, in effect, remedial consideration for the Fiscal Year (FY) 08 Line Commander Selection Board and, if selected, promotion to commander with a date of rank and effective date of 1 October 2007. You also impliedly requested removing your failures of selection by the FY 08, 09 and 10 Line Commander Selection Boards. Finally, you requested that the regular/concurrent fitness reports for 15 September 2005 to 31 October 2006 and 1 November 2006 to 31 October 2007 (extended to 31 December 2007) be added to your record.

It is noted that the Navy Personnel Command (NPC) has added to your record the reports in question, without the signatures of the regular reporting senior.

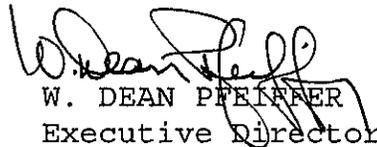
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 1 April 2010. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 NPC dated 8 December 2009 with enclosures,

16 December 2009 and 27 January 2010, copies of which are attached. The Board also considered your letter dated 23 March 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. The Board particularly noted that on 8 February 2007, you submitted a copy of the report ending 31 October 2006 to the FY 08 Line Commander Selection Board, convened on 13 February 2007. The Board was unable to find the selection board would have given this report substantially less weight because it was not signed by the regular reporting senior. The Board observed that the report ending 31 October 2007 (extended to 31 December 2007) was not due when that promotion board met. Finally, the Board also noted that you failed of selection by the FY 10 Line Commander Selection Board, to which you provided copies of both reports. In view of the above, your application for relief beyond that affected by NPC 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