



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

JSR
Docket No: 0093-10
4 March 2010

[REDACTED]

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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 removing the fitness reports for 3 May 2007 to 31 May 2008 and 1 June to 28 August 2008. You also requested removing your failure of selection by the Fiscal Year (FY) 2010 Major Selection Board. After you had submitted your application, you failed of selection by the FY 2011 Major Selection Board. It is presumed you desire removing that failure of selection as well, and setting aside any action to effect your discharge from the Marine Corps by reason of having twice failed of selection to major.

It is noted that the Commandant of the Marine Corps (CMC) has directed removing both contested fitness reports.

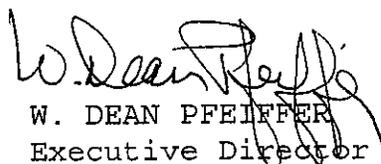
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 March 2010. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board dated 25 November 2009 and the advisory

opinion from HQMC dated 15 December 2009, copies of which are 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. The Board found that your failures of selection to major should stand. In this regard, the Board substantially concurred with the comments contained in the advisory opinion in concluding your selection by either promotion board would have been definitely unlikely, had your record not included either of the fitness reports at issue. Since the Board found insufficient grounds to remove either of your failures of selection to major, it had no basis to recommend setting aside any action to effect your discharge by reason of those failures. 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