



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

HD:hd
Docket No. 03625-10
25 April 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 removal of all correspondence and actions associated with the delay of your promotion to commander and removal from the Fiscal Year (FY) 04 Line Commander Promotion List; promotion to commander with a date of rank and effective date of 1 March 2004; change of your retired grade from lieutenant commander to commander; removal of the fitness reports for 1 November 2002 to 31 October 2003 and 1 November 2003 to 13 October 2004; by implication, removal of your failures of selection by the FY 07, 08 and 09 Line Commander Selection Boards; and investigation of the reporting senior's actions. Your request for investigation of the reporting senior's actions was not considered, as the Board for Correction of Naval Records is not an investigative body.

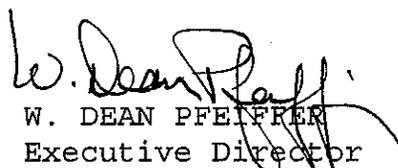
A three-member panel of the Board, sitting in executive session, considered your application on 22 April 2010. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command (NPC), dated 17 November 2008 with enclosures and 6 April 2009, and the Office of the Judge Advocate General dated 29 September 2009 with enclosure, copies of which are

attached. The Board also considered the NPC e-mail dated 3 September 2009 with attachment (DD Form 214), a copy of which is attached, and your letters dated 20 August 2009 with enclosures, 30 October 2009 and 2 February 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. In this connection, the Board substantially concurred with the comments contained in the advisory opinions. The Board found the action to remove you from the promotion list was adequately supported without the charges of which you were acquitted. The Board did not find it objectionable that the Director of the NPC Career Progression Division submitted the letter of 1 September 2004 requesting that the delay of your promotion be extended. Finally, the Board was unable to find that the reporting senior improperly influenced the actions taken in your case, or that he had a personal vendetta against 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

Enclosures