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

BJG  
Docket No: 8458-10  
13 August 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 that the fitness report for 1 November 2005 to 15 February 2006 be modified by raising the mark in section K.3 (reviewing officer's "Comparative Assessment") from the fourth best of eight possible marks to the third best; and that the report for 26 July 2006 to 28 February 2007 be modified by raising the mark in section K.3 from the third best to the second best. You also requested removing your failures of selection by the Fiscal Year (FY) 2008 through 2011 Lieutenant Colonel Selection Boards.

It is noted that the Commandant of the Marine Corps (CMC) has directed the requested modification of the report for 26 July 2006 to 28 February 2007.

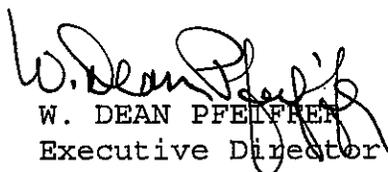
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 August 2010. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 (PERB), dated 11 August 2010, and the advisory opinion from HQMC dated 4 August 2010, 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. In this connection, the Board substantially concurred with the comments contained in the advisory opinion in finding that the fitness report for 1 November 2005 to 15 February 2006 should not be modified. The Board further concurred with the advisory opinion from MMOA-4 in concluding that your failures of selection to lieutenant colonel should not be removed, as your selection would have been definitely unlikely, even if the fitness report for 26 July 2006 to 28 February 2007 had been modified. The Board also noted that this report was not in your record for the FY 2008 Lieutenant Colonel Selection Board, which convened on 6 September 2006. 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

Enclosures