



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

TJR
Docket No: 203-11
12 January 2011

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 January 2011. The names and votes of the members of the panel will be furnished upon request. 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 opinion furnished by the Marine Corps Military Law Branch (JAM3), a copy of which is attached; and the documentation provided as a rebuttal to the advisory opinion.

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 substantially concurred with the comments contained in the advisory opinion. In this regard, the Board noted that your commanding officer's statement which directed that the "adverse material concerning this matter would not become a part of your military record" was referring solely to your proposed administrative separation for cause and/or retention, and not to the nonjudicial punishment (NJP) imposed on 27 March 2007. Further, the Board concluded that sufficient evidence existed to support your commanding officer's decision to impose NJP and that removal of it from your record would be unfair to your peers, against whom you will compete for promotions and assignments. Accordingly, your application has been denied.

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