



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

JSR
Docket No. 00431-11
31 March 2011

[REDACTED]

[REDACTED]

This is in reference to your application dated 3 August 2010, seeking reconsideration of your previous application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. Your previous case, docket number 00897-07, requesting removal of the fitness report for 2 June to 24 December 2005, was denied on 23 February 2007. You have added a new request to remove the service record page 11 ("Administrative Remarks (1070)") counseling entry dated 24 December 2005 and your undated rebuttal.

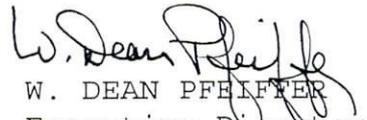
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, reconsidered your case on 31 March 2011. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your current application, together with all material submitted in support thereof, the Board's file on your prior case, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 4 January 2011, a copy of which is 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 report of the PERB. The Board was unable to find the contested fitness report was submitted in lieu of disciplinary action, or that the misconduct it reflects was not relevant to your

in section K.3 (reviewing officer's (RO's) "Comparative Assessment") of the contested report and the RO's favorable comments in section K.4, on the one hand, and on the other, the RO's statement, in his reply to your statement of 28 December 2005, "I recommend that [you] not be considered for promotion at any time." Since the Board still found insufficient basis to remove the fitness report at issue, it had no grounds to remove the contested page 11 entry. In view of the above, the Board again voted to deny relief. 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 PFIEFFER
Executive Director