



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

JSR

Docket No: 7272-12

11 April 2013

Dear [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 3 June 2010 to 30 June 2011 be modified, in accordance with the reporting senior's (RS's) letter dated 11 March 2012 and the reviewing officer's (RO's) undated endorsement, by raising the marks in sections E.1 ("Courage") and E.2 ("Effectiveness Under Stress") from "C" (fifth best of seven possible marks) to "D" (fourth best). You also impliedly requested removing your failures of selection by the Fiscal Year (FY) 2011, 2012 and 2013 Master Sergeant Selection Boards.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 11 April 2013. 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 Performance Evaluation Review Board (PERB), dated 29 June 2012, and the PERB memorandum dated 8 January 2013, copies of which are attached. The Board also considered the e-mail on your behalf from Master Gunnery Sergeant J--- dated 15 October 2012 with attachment (undated statement from Master Sergeant S---) and your e-mail dated 5 October 2012 (identifying Master Gunnery Sergeant J---).

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was

insufficient to establish probable material error or injustice. The Board substantially concurred with the report of the PERB. except to note your application did not request raising the mark in section K.3 (reviewing officer's "Comparative Assessment"). The Board did not find the e-mail from Master Gunnery Sergeant J--- with attachment to be persuasive. The Board found that your failure of selection by the FY 2011 promotion board should stand, because the fitness report at issue was not in your record for that board, which convened on 19 October 2010; nor was it due when that board convened, as the period ended well after the convening date. The Board found that your FY 2012 failure of selection should stand as well, since it found insufficient basis to modify your fitness report record; and the RS's letter and the RO's endorsement were not submitted until after the board had convened on 18 October 2011, so they could not have been considered. The Board was unable to find undue administrative delay in the submission of this correspondence. Finally, the Board found that your FY 2013 failure of selection should stand, as the Board found insufficient basis to modify your fitness report record, and you had the opportunity to submit the RS's letter and the RO's endorsement to the promotion board, which convened on 17 October 2012. 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.

Although the Board voted not to modify the fitness report in question, you may submit the RS's letter and the RO's endorsement to future selection boards.

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,



ROBERT D. ZSALMAN
Acting Executive Director

Enclosure