



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

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HD  
Docket No: NR2944-14  
17 October 2014

[REDACTED]

Dear Lieutenant [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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 16 October 2014. 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 and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 11 June and 3 September 2014, copies of which are attached. The Board also considered your counsel's letter dated 4 August 2014.

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 advisory opinion dated 11 June 2014 in concluding the contested fitness report should stand. The Board found your having been acquitted of civil charges of domestic battery did not negate the reporting senior's statement that you had a "physical altercation" with your spouse. The Board was unable to find the letter of instruction cited in the contested report was invalid. In this regard, the Board found that this letter did adequately establish the "desired performance standard," and that a specific "period of time for correction of the

performance deficiency" was inapplicable, as the letter instructed you not to do certain things. Since the Board found insufficient basis to remove the fitness report at issue, it had no grounds to remove either of your failures of selection by the Fiscal Year 14 and 15 Staff Lieutenant Commander Selection Boards or set aside action to effect your discharge by reason of those failures not later than 1 February 2015. 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 evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in this case. 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 J. O'NEILL  
Executive Director

Enclosure

Copy to:

