



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

BJG
Docket No: 955-00
27 February 2001

Dear

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.

It is noted that the Commandant of the Marine Corps (CMC) has directed removal of your contested fitness report for 1 February to 31 July 1994.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 22 February 2001. 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 4 October 2000, the two advisory opinions from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMAA-4), dated 9 March and 29 September 2000, and a memorandum for the record (MFR) dated 21 February 2001, copies of which are attached. They also considered your letters dated 14 July 2000, with enclosures, and 17 July 2000.

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 report of the PERB in finding that your contested fitness report for 8 July to 31 October 1992 should stand.

The Board found that your failures by the Fiscal Year (FY) 2000 through 2002 Major Selection Boards should remain as well. In this regard, they particularly noted the MFR in finding that your removed fitness report for 17 January to 4 September 1998 was not in your

record before the Fiscal Year (FY) 2000 Major Selection Board, which convened on 17 November 1998 and adjourned on 9 December 1998. They further noted that the reviewing officer did not sign this report until 8 December 1998, the day before the selection board adjourned. They substantially concurred with the MMOA-4 opinion dated 29 September 2000 in finding that your selection by the FY 2000 and 2001 Major Selection Boards would have been definitely unlikely, even if your report for 1 February to 31 July 1994 had not been in your record for both boards, and even if your report for 17 January to 4 September 1998 had not been in your record before the FY 2001 Major Selection Board, which convened on 26 October 1999. In light of the MFR, they further found that your fitness report record before the FY 2002 Major Selection Board, which convened on 30 October 2000, had been fully corrected. Since the Board found insufficient basis to strike your failure by the FY 2000 Major Selection Board, and they found your fitness report record before the FY 2002 Major Selection Board had been corrected, they had no grounds to remove your FY 2002 failure.

As the Board found insufficient basis to remove any of your failures of selection for promotion, they had no grounds to recommend granting you consideration by a special selection board, or set aside action to effect your involuntary retirement scheduled for 1 December 2002.

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

