



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

BJG
Docket No: 6373-06
28 September 2006



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 modifying the fitness reports for 1 June to 1 September 2000 and 2 September 2000 to 5 March 2001 by removing section K (reviewing officer (RO) marks and comments). You also requested that the fitness report for 20 December 2003 to 31 May 2004 be modified by removing the mark in section K.3 (RO's "Comparative Assessment") or raising it, in accordance with the RO's letter dated 16 March 2006, from the sixth best of eight possible marks to the fifth best. Finally, you requested removing your failure of selection by the Fiscal Year (FY) 2007 Major Selection Board.

It is noted that the Commandant of the Marine Corps (CMC) has directed modifying the contested section K of the fitness report for 1 June to 1 September 2000 by removing, from section K.4 ("[RO] Comments") "Developing slightly behind peers."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 28 September 2006. 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 11 July 2006, and the advisory opinion from the HQMC Officer Counseling Section, Personnel Management Division (MMOA-4), dated 31 July 2006, copies of which are attached. The Board also considered your rebuttal letter dated 15 September 2006 with enclosures.

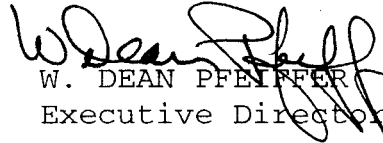
After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Specifically concerning the contested section K of the fitness report for 2 September 2000 to 5 March 2001, the Board found the mark in section K.3, the second lowest of eight possible marks, did not require marking section K.2 ("Evaluation") "Do Not Concur [with reporting senior]." The Board substantially concurred with the advisory opinion from MMOA-4 in concluding your selection by the FY 2007 Major Selection Board would have been definitely unlikely, even if the correction directed by CMC had been effected. 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.

Although the Board voted not to modify section K.3 of the report for 20 December 2003 to 31 May 2004, you may submit the RO letter of 16 March 2006 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,


W. DEAN PFEIFFER
Executive Director

Enclosures