



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

HD:hd
Docket No. 11171-08
23 July 2009

[REDACTED]

[REDACTED]

[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 your flight status be changed from B(2) (termination of flight status without retention of eligibility to wear the naval aviator insignia) to B(1) (termination of flight status with retention of eligibility to wear the naval aviator insignia); and that you be awarded back flight pay from the time your eligibility for such pay was revoked to the time you would no longer have been entitled to it. Your request to change flight status was not considered, as it is the policy of the Board for Correction of Naval Records not to entertain such requests.

A three-member panel of the Board, sitting in executive session, considered your application on 23 July 2009. 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, applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 16 January 2008 (sic) and the Commander, Naval Air Force, U. S. Pacific Fleet dated 5 May 2009, copies of which are attached. The Board also considered your counsel's letter dated 17 June 2009 with attachments.

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 was unable to find that your commanding officer was incapable of making a fair assessment in your case; nor could it find that it was improper for him to have considered against you the evidence you had attempted to cover up the use of a video camera during the evolution in question, even if you are correct that he received that evidence from a member of another officer's Field Naval Aviator Evaluation Board (FNAEB). The Board was likewise unable to find that your loss of situational awareness was insufficient to support the decision to assign you B(2) status. Finally, while the Board did recognize that your FNAEB recommended B(1) status, it could not find the final decision to assign you B(2) status was erroneous or unjust. 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 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

Copy to:
