



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

HD:hd  
Docket No. 00587-09  
30 April 2009

[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 16 September 2006 to 15 September 2007 be modified by raising the mark in block 42 ("Promotion Recommendation - Individual") from "Must Promote" (second best of five possible marks) to "Early Promote" (best) and completely removing the report for 16 September 2007 to 18 June 2008.


A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 April 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, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command (PERS-311) dated 26 February 2009, a copy of which is attached. The Board also considered your counsel's letter dated 8 April 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. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The Board observed that in accordance with Bureau of Naval Personnel Instruction 1610.10A, enclosure (2), Table 1-3, the maximum number of chief petty officers, in a group of 11, that could be marked "Early Promote" was three, the number so marked in the report for 16 September 2006 to 15 September 2007. Further concerning that report, the Board was unable to find you were not counseled on 15 March 2007, as block 30 of the report reflects you were; and it found no requirement that counseling be performed by the commanding officer and command master chief. Regarding the contested fitness report for 16 September 2007 to 18 June 2008, the Board found no requirement that the command convene a performance review board. You may resubmit your statement of 20 January 2009, concerning this report, directly to PERS-311 to have it filed in your record with the report. You should explain why you did not submit your statement via the reporting senior. 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

Enclosure

Copy to:  
