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

JSR
Docket No: 6116-09
30 July 2009

[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 the fitness report for 14 June to 3 August 2004 be modified by deleting, from section I (reporting senior (RS) "Directed and Additional Comments"), "Directed Comment: A.3.b. MRO [Marine reported on] lack of attention/oversight." and from section K.4 (reviewing officer (RO) comments), "This evaluation is late due to an oversight by the MRO to submit a grade change fitrep [fitness report] even after prompting by the RS."; raising the mark in section K.3 (RO "Comparative Assessment") from the fifth best of eight possible marks to the fourth best; and changing the mark in section A, item 7 ("Recommended for Promotion") from 7.c ("N/A [not applicable]") to 7.a ("Yes"). You also requested completely removing the fitness report for 15 November 2004 to 30 May 2005 and modifying the report for 1 June to 1 September 2005 by removing the entire section K (RO marks and comments) or, if that modification is denied, raising the mark in section K.3. Finally, you impliedly requested removing your failure of selection by the Fiscal Year (FY) 2009 Chief Warrant Officer 3 (CWO3) Selection Board.

It is noted that the Commandant of the Marine Corps (CMC) has directed removing all the contested comments from sections I and K.4 of the report for 14 June to 3 August 2004; modifying the

report for 15 November 2004 to 30 May 2005 by removing, from section I, "he is maturing into his role as a CWO [chief warrant officer]." and "requires limited supervision" and removing, from section K.4, "with minimal supervision."; and modifying section K of the report for 1 June to 1 September 2005 by removing, from section K.4, "Continues to grow into the responsibilities of a Warrant Officer."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 30 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, 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 3 June 2009, and the advisory opinion furnished by HQMC dated 15 July 2009, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the report of the PERB. Concerning your request to raise the section K.3 mark in the report for 14 June to 3 August 2004, the Board found the RO's having marked you one block higher in the immediately preceding and following reports did not invalidate the mark in question. Specifically regarding the contested report for 15 November 2004 to 30 May 2005, the Board felt that the favorable matters cited in section C ("Billet Accomplishments") did not have to be addressed further elsewhere in the report. The Board was unable to find the mark in section K.3 of the report for 1 June to 1 September 2005 should have been higher. Finally, the Board concurred with the advisory opinion in concluding your selection by the FY 2009 CW03 Selection Board would have been definitely unlikely, even if your record had been corrected in accordance with the CMC action. 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

Enclosure