



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

HD:hd  
Docket No. 01486-10  
5 August 2010

[REDACTED]

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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 removing the civil action report dated 7 January 2009 and related documents. You also impliedly requested removing your failures of selection by the Fiscal Year 10 and 11 Line Lieutenant Commander Selection Boards and setting aside action to effect your discharge on 1 February 2011 by reason of the failures of selection for promotion.

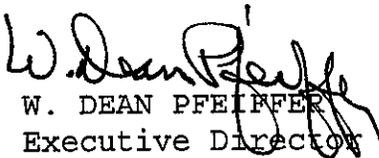
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 August 2010. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Navy Personnel Command dated 31 March 2010, a copy of which is attached. The Board also considered your e-mail dated 7 July 2010 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 noted that a state court order of expungement is not binding on the Federal Government.

Since the Board found no defect in your record considered by the FY 10 or 11 Line Lieutenant Commander Selection Board, it had no basis to remove either of your failures of selection for promotion or set aside action to effect your discharge. 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