



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

JSR
Docket No: 13803-10
5 May 2011

JSR

[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 adjusting your colonel date of rank and effective date from 1 August 2010 to reflect selection by the Fiscal Year (FY) 2007 Active Reserve (AR) Colonel Selection Board, rather than FY 2011. You also impliedly requested removing your failures of selection by the FY 2008 through 2010 AR Colonel Selection Boards.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 May 2011. 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 from Headquarters Marine Corps dated 16 February 2011, a copy of which is attached, and your counsel's letter dated 25 April 2011.

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.

Further, the Board found that before submitting correspondence revealing your uncorrected record to the FY 2008 AR Colonel Selection Board, you should have checked with this Board as to the outcome of your application. Finally, the Board was unable to find your selection by the FY 2007 AR Colonel Selection Board would have been probable, had your fitness report record been corrected. In this regard, the Board particularly noted that you were not selected by the first promotion board to consider you with a corrected record. 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 PREIFFER
Executive Director

Enclosure

Copy to:
