



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

JSR
Docket No: 5823-08
14 November 2008

[REDACTED]

Dear Serg [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 service record page 11 ("Administrative Remarks (1070)") entry dated 11 April 2005 be amended to reflect you have had only one page 11 entry. You assert that the entry at issue says it was your second page 11 entry, and you contend this should be reworded in light of this Board's action in your previous case, docket number 8514-07, to remove the page 11 entry dated 1 August 2005.

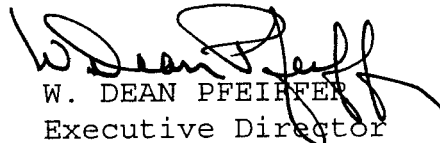
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 November 2008. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, the Board's file on your previous case, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion from Headquarters Marine Corps dated 1 October 2008, a copy of which is attached.

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

concluded with the comments contained in the advisory opinion, noting the contested entry actually does not refer to a previous page 11 entry, but rather states your assault and battery conviction of 15 March 2005 "has been your second offense of search [sic] nature." The Board further observed that the uncontested page 11 entry dated 27 July 2005 refers to an assault and battery conviction on 11 October 2004, which is before the conviction cited in the contested entry, so the reference to a "second offense" of the same nature would appear to be correct. 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