



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

HD:hd  
Docket No. 08812-08  
21 January 2009

[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.

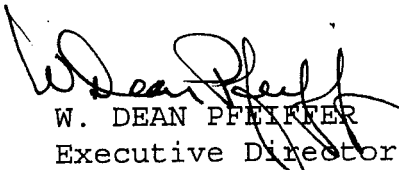
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 15 January 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. 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 opinions furnished by the Navy Personnel Command dated 23 and 30 October 2008, copies of which are attached. The Board considered your letter dated 10 December 2008.

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 opinions. The Board did not disbelieve your wife's statement, but was unable to find the contested promotion recommendation in the fitness report in question should be modified or removed. In this regard, the Board particularly noted that the same reporting senior assigned you the same promotion recommendation, with the same peer distribution, in the uncontested preceding report for 13 June to 30 September 2004, and that in the report

at issue, he marked you higher in two areas (blocks 33 ("Professional Expertise") and 39 ("Tactical Performance")) than he had marked you in the preceding report. The Board also felt the positive comments in the disputed report were not of the kind to be expected from a reporting senior who was biased against you. 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

Enclosures