



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

JSR  
Docket No: 12297-08  
20 February 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, in effect, that the fitness report for 29 March to 26 June 2008 be modified, in accordance with the reporting senior (RS)'s letter dated 3 October 2008 with enclosures, by raising the marks in sections D.2 ("Proficiency"), F.1 ("Leading Subordinates"), F.3 ("Setting the Example"), F.4 ("Ensuring Well-being of Subordinates"), F.5 ("Communication Skills"), G.2 ("Decision Making Ability"), G.3 ("Judgment") and H.1 ("Evaluations") from "D" (fourth best of seven possible marks) to "E" (third best).

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 20 February 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 Performance Evaluation Review Board (PERB), dated 17 December 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 concurred with the comments contained in the report of the PERB, except to note the reviewing officer did not concur with the contested marks, but indicated he had "insufficient" observation. While the Board recognized the RS's letter was submitted only two months after he had signed the fitness report at issue, the Board was unable to find the contested marks were not those the RS intended to assign 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.

Although the Board voted not to modify the fitness report in question, you may submit the RS's letter with enclosures to future selection boards.

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