



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

JSR

Docket No: 193-09

5 November 2009

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[REDACTED]

[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 November 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 (HQMC) Performance Evaluation Review Board (PERB), dated 8 September 2009, and the advisory opinion from HQMC dated 10 September 2009, copies of which are 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.

Specifically concerning the contested fitness report for 1 August 2005 to 3 January 2006, the Board was unable to find the reporting officials were biased against you before you were relieved, or that you were not counseled about what they

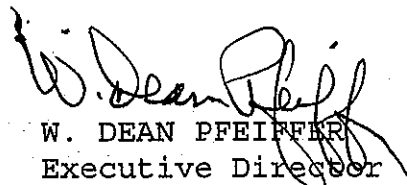
expected of you. The Board noted that both contested fitness reports do address your medical condition and reflect that condition may have contributed to the substandard performance reported. The Board found your own reticence about reporting your medical condition and your commendable desire to serve contributed to your not having been referred for a command directed mental health evaluation, on your first deployment, until after you had been relieved for cause; and your having been deployed twice, notwithstanding your medical condition and your having been relieved on your first deployment. Finally, the two supporting statements at Tab 22 to your counsel's brief did not persuade the Board you deserved more favorable evaluations in either of the contested fitness reports.

Since the Board found no defect in your performance record, it had no basis to recommend removing either of your failures of selection by the Fiscal Year 2008 and 2009 Lieutenant Colonel Selection Boards or granting you consideration by a special selection board.

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

Copy to:  
