



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

JSR
Docket No. 08633-09
3 September 2009

[REDACTED]

[REDACTED]

This is in reference to your application dated 15 April 2009, seeking reconsideration of your previous application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. Your previous case, docket number 07213-07, was denied on 20 September 2007.

You again requested removing the fitness report for 1 September 2006 to 22 January 2007. You added a new request to remove your failures of selection by the Fiscal Year (FY) 2009 and 2010 Lieutenant Colonel Selection Boards. You also requested, if the contested fitness report is removed, consideration by a special selection board (SSB) for the FY 2009 Lieutenant Colonel Selection Board. Finally, you requested an SSB for the FY 2010 Lieutenant Colonel Selection Board. Your requests regarding the FY 2010 Lieutenant Colonel Selection Board were not considered, as you have not exhausted your administrative remedies (action on your request dated 15 April 2009 for an SSB for the FY 2010 Lieutenant Colonel Selection Board is pending).

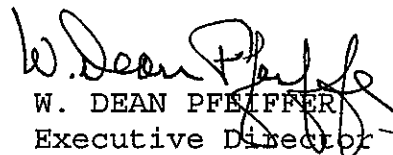
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, reconsidered your case on 3 September 2009. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your current application, together with all material submitted in support thereof, the Board's file on your prior case, 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

10 August 2009, a copy of which is attached, and your letter dated 12 August 2009 with enclosures.

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 (paragraph 2 of which does not reflect your case has been heard twice previously) in concluding the contested fitness report should stand. Further, the Board noted that the modification of this report directed by PERB in your previous case was implemented on 7 August 2007, before the FY 2009 Lieutenant Colonel Selection Board convened on 5 September 2007. In view of the above, the Board again voted to deny relief. 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