



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

HD:hd
Docket No. 10412-09
14 January 2010

[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 14 January 2010. 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 and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 20 and 27 October 2009, copies of which are attached. The Board also considered your letter dated 20 December 2009.

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.


The Board substantially concurred with the advisory opinion dated 20 October 2009 in concluding that the contested original fitness report should stand. In this regard, the Board was unable to find the supplemental report was a more fair and accurate evaluation of your performance than the original.

The Board further found that both your failures of selection by the Fiscal Year (FY) 09 and 10 Reserve Staff Captain Selection Boards should stand. The Board noted that the contested original fitness report, signed on 5 May 2008, was not available to the FY 09 promotion board, which adjourned on 28 February 2008. Since the supplemental material was not submitted until July 2009, after the FY 10 promotion board had adjourned on 27 February 2009, the Board found its absence was not a valid basis for removing your failure of selection by that promotion 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

Enclosures