



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

HD:hd
Docket No. 04044-10
11 February 2011

[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 removal of the "special" enlisted performance evaluation report for 16 March to 3 June 2009.

It is noted that the Navy Personnel Command (NPC) has administratively modified the contested report and other pertinent service record entries by removing references to your reduction in rate and forfeiture of pay, both of which were the subject of commanding officer's mitigation of your nonjudicial punishment awarded on 3 June 2009.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 February 2011. 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 NPC dated 21 May 2010, 16 June 2010 with enclosure, 20 July 2010 with enclosure and 31 August 2010 with enclosure, 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 advisory opinions dated 21 May and 20 July 2010 in

concluding that the contested report, as modified, should stand. In view of the above, your application for relief beyond that effected by NPC 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