



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

HD:hd
Docket No. 08895-10
21 January 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 removing documentation of your detachment for cause (DFC) and the fitness report for 13 December 2009 to 26 July 2010. You also requested that you be placed on the promotion list for the Fiscal Year (FY) 11 Line Lieutenant Commander Selection Board and promoted to lieutenant commander as an FY 11 selectee. This was treated as an implied request to remove your failure of selection by the FY 11 Line Lieutenant Commander Selection Board. Your request for promotion was not considered, as you have not been selected by a duly constituted officer promotion selection board.

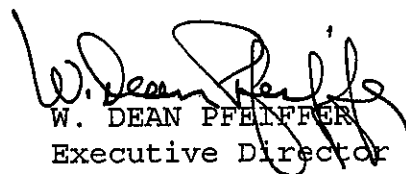
A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 January 2011. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 22 October 2010 and 9 and 17 November 2010, copies of which are attached. The Board also considered your letter dated 16 December 2010.

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 22 October and 17 November 2010 in concluding the contested DFC documentation and fitness report should stand. In this regard, the Board was unable to find you were not given an adequate opportunity to improve before the DFC was initiated, noting the DFC request dated 14 September 2009 states you had been counseled no less than 40 times. The Board was likewise unable to find the grounds for the DFC were not adequately established. Since the Board found no defect in your record as it was presented to the FY 11 Line Lieutenant Commander Selection Board, it had no basis to remove 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