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

JSR  
Docket No: 9523-10  
10 March 2011

[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.

You requested, in effect, that your naval record be corrected to show you were promoted to first lieutenant with a date of rank and effective date of 22 December 2002 and that you were subsequently promoted in due course to captain.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 10 March 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 from Headquarters Marine Corps dated 18 November 2010 and 3 January 2011, copies of which are attached, and your letter dated 15 February 2011.

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 opinion dated 18 November 2010.

The Board observed that your case was not resolved at the conclusion of your civil proceedings, as administrative separation proceedings were to be initiated. The Board was unable to find fault with your lawyer's having advised you to resign to avoid administrative separation proceedings. Finally, the Board found that your having been assigned an honorable discharge from active duty on 15 September 2005 was not inconsistent with initiating administrative separation proceedings at the conclusion of your civil proceedings in April 2009.

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