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

BJG
Docket No: 11210-10
10 November 2010

[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 completely removing the fitness report for 5 to 22 May 2008.

It is noted that the Commandant of the Marine Corps (CMC) has directed modifying the contested report by removing, from the third sighting officer addendum page, "This report is a valid adverse report due to MRO [Marine reported on] receiving a 6105 counseling."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 November 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, your naval record and applicable statutes, regulations and policies. The Board also considered the report of the Headquarters Marine Corps Performance Evaluation Review Board (PERB), dated 4 October 2010, a copy of which is 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 report of the PERB. The Board noted that the uncontested "CH" (change of reporting senior) fitness report immediately preceding the contested report ends on 15 May 2008, so the 5 May 2008 beginning date of the contested report overlaps the uncontested report. However, the Board was unable to determine whether it is the ending date of the uncontested report or the beginning date of the contested report that is incorrect. If the beginning date of the contested report is incorrect, the Board found this would support changing the date, rather than removing the report. The Board did not condone the late submission of the report at issue, but was unable to find this invalidated it. In this regard, the Board was unable to find the lateness harmed your ability to respond effectively. In view of the above, your application for relief beyond that effected by CMC 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