



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

JSR
Docket No. NR332-13
24 October 2013

Dear Sergeant [REDACTED]

This is in reference to your letter dated 10 January 2013, seeking reconsideration of your previous application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. You again requested removing the fitness reports for 10 April to 31 October 2007 and 1 November 2007 to 3 February 2008 and the service record page 11(M) ("Administrative Remarks (1070)") counseling entry dated 11 January 2008. In your previous case, docket number 5015-11, the Board denied this relief on 15 September 2011.


A three-member panel of the Board for Correction of Naval Records, sitting in executive session, reconsidered your case on 24 October 2013. 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, the Board's file on your prior case, your naval record and applicable statutes, regulations and policies. The Board also considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB) dated 19 July 2013 and the advisory opinion from HQMC dated 8 August 2013, 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 report of the PERB and the advisory opinion. Specifically regarding the contested counseling entry, the Board found the extenuating circumstances you presented did not excuse your

lapse of judgment for firing your pistol at a pack of stray dogs when there were other means to handle them that would have avoided using deadly force, regardless of whether the standard operating procedure was unclear. In view of the above, the Board again voted to deny the requested relief. 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