



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

LCC:ddj
Docket No: 4062-01
12 June 2001

[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.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 12 June 2001. 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.

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.

The Board determined that the Defense Officer Personnel Management Act (DOPMA), effective 15 September 1981, is the controlling legislation and precludes granting constructive service credit for pay. The Board further concluded that to grant your request would be contrary to both the spirit and clear intent of the law.

As to the contention that you were misled by erroneous advise during recruitment as to constructive service credit, the Board was not convinced that the miscounseling was a principal motivating factor in your decision to accept a scholarship.

The Board also considered its previous action of granting relief to the USUHS students in the Class of 1986 and those students accepting a scholarship in the Armed Forces Health Professions Scholarship Program who graduated from medical school in 1986 and concluded that the unique circumstances surrounding those petitions were such that relief should be granted. The Air Force and Army Correction Boards had previously granted relief to Air Force and Army personnel in the USUHS Class of 1986, and not to do so for Navy personnel would have resulted in an inequity. The Army Board also granted relief to Scholarship students who graduated in 1986 to create parity.

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Accordingly, 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