



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

MEH
Docket No. 7492-08
8 Sep 08

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of 10 USC 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 September 2008. 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 opinion furnished by BUPERS memo 1780 BUPERS-262G of 19 Aug 08, 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 comments contained in the advisory opinion. 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 also 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



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1780
BUPERS-262G
19 Aug 08

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-31C)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO [REDACTED]

Ref: (a) CNPC memo 5420 PERS-31C of 19 Aug 08
(b) Title 38, United States Code, Chapter 30

1. The following is provided in response to reference (a):

a. A review of [REDACTED] digital service record revealed he entered the Navy on 13 February 2001 with a four-year term of enlistment. [REDACTED] elected to enroll in the Montgomery GI Bill (MGIB) Program on 16 February 2001 and paid the required \$1,200. On 27 August 2003 after serving 2 years, 6 months, and 15 days, he was discharged from the Navy due to "Alcohol Abuse Rehabilitation Failure." [REDACTED] Character of Service was "General Under Honorable Conditions."

b. Per reference (b), the law governing the MGIB Program, a member must receive an "Honorable" discharge for service to establish entitlement to MGIB benefits. "General Under Honorable Conditions" is not considered "Honorable" service. Since the law does not allow waiver of any requirement, we recommend denial. Additionally, reference (b) requires 36 months of active duty to receive MGIB Program benefits. Even if [REDACTED] character of service was upgraded to "Honorable," he wouldn't be eligible for MGIB Program benefits because he only served 30 months of active duty.

2. BUPERS-262G's point of contact is Ms. Barbara Miller who can be reached at (DSN) 882-4259 or (C) 901-874-4259.

A. T. Schmitt

A. T. SCHMITT
Head, GI Bill Programs Section
(BUPERS-262G)