



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

MEH
Docket No. 1261-08
24 Nov 08

[REDACTED]

Dear [REDACTED]

This is in reference to your client, former Midshipman [REDACTED] application for correction of his 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 clients' application on 24 November 2008. Your client's 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 his application, together with all material submitted in support thereof, his naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by NAVCAD memo 5800 of 23 Apr 08, and OJAG memo 5420.1a Ser 13/4BC12750.08 of 6 Jun 08, copies of which are attached.

The Board member's also considered your client's request for a personal appearance, however they found that the issues in the case were adequately documented and that a personal appearance with or without counsel would not materially add to the Board's understanding of the issues involved. Thus, your client's request for a personal appearance has been denied.

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 opinions. The Board found there was no error or injustice in the procedures used or the evidence considered in your client's disenrollment from the Naval Academy. Further, the Board found that the education received, at government expense, enhanced his opportunity for increased life-long earnings and employment potential. It was noted that Mr. William A. Navas, Assistant Secretary of the Navy (Manpower and Reserve Affairs), acting on behalf of the Secretary of the Navy, approved the recoupment of the cost of your client's United States Naval Academy education on 7 February 2005. In response to your request for reconsideration, Mr. Navas reaffirmed his previous decision in a letter dated 15 November 2007.

The Board found no compelling reason to disturb Mr. Navas's prior decisions. Accordingly, your client's 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 client's case are such that favorable action cannot be taken. Your client is 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

Enclosures