



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1001
ARLINGTON, VA 22204-2490

JET
Docket No. NR2082-14
20 Jan 15



Dear 

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 20 January 2015. 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 CNRFC memo 5420 Ser N1/1169 of 20 Nov 14, 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 making this determination, the Board concurred with the comments contained in the advisory opinion. The Post-9/11 Veterans Education Assistance Act (Post-9/11 GI Bill, Public Law 110-252) was signed into law on 30 June 2008 and became effective on 1 August 2009. General descriptions of the essential components of the new law were widely available beginning in summer 2008 and specific implementing guidance was published in the summer of 2009.

Under the governing regulations, to be eligible to transfer benefits, a member must be on active duty or in the selective reserve at the time of the election to transfer. This is an important feature of the law because the transferability provisions are intended as an incentive vice a benefit. Members

who are retired are not eligible to transfer their education benefits.

Evidence shows that you failed to take the steps necessary to transfer benefits. Your application claims, [REDACTED] on 23 Jun'01 falsely claimed on Montgomery GI Bill - Selected Reserve Record Adjustment/Audit Worksheet, that I was transferred to the IRR on 14 Nov 1999." You further claimed that, "I have provided documentation that I was an active participant up until I went into the IRR in Nov 00 and reaffiliated with a new unit at Pt. Mugu on 24 Feb 2001." Furthermore, as part of your application, you included a copy of your Re-Affiliation Waiver dated 29 March 2001, acknowledging then that the date you were last terminated from inactive duty was 14 November 2000.

The Board found that though you may have been actively drilling, you were drilling as a member of the Individual Ready Reserve (IRR). When you voluntarily transferred to the IRR, you transferred from the Selective Reserve (SELRES) and terminated your Montgomery GI Bill - Selected Reserve (MGIB-SR) (Basic) Statement of Understanding (SOU) you signed when you joined the drilling Navy Reserve, along with the Notice of Basic Eligibility (NOBE). The MGIB-SR required that you serve six years of Inactive-Duty Training (IDT) drilling in the Selective Reserve. Under these circumstances, the Board found that no relief is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

The Board members also considered your request for a personal appearance; however, they found that the issues in the case were adequately documented and that a personal appearance would not materially add to the Board's understanding of the issues involved. Thus, your request for a personal appearance has been denied.

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 evidence within one year from the date of the Board's decision. New evidence is evidence not previously considered by the Board prior to making its decision in this case. 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,

A handwritten signature in cursive script, appearing to read "Robert J. O'Neill".

ROBERT J. O'NEILL
Executive Director

Enclosure: CNRFC memo 5420 Ser N1/1169 of 20 Nov 14