



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE ROAD, SUITE 1004
ARLINGTON, VA 22204-2490

JET
Docket No. NR3219-14
10 Sep 14

[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 10 September 2014. 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 HQMC Memo 7220 MPO of 18 Jul 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 such benefits. 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 the benefits.

Evidence shows that you failed to take the steps necessary to transfer benefits. Your application claims, that "I was erroneously denied the ability to convey post-911 educational benefits to my children." You also claim that "At sometime between April and June 2010, I made the attempt to transfer my educational benefits to my two oldest children...I was told by the Staff Non-Commissioned Officer in Charge of the Headquarters Battalion (Henderson Hall) S-1 Section that I was ineligible." However, you have provided no proof that you were misled or misinformed you were ineligible or that you made any attempt to enter the Transfer of Education Benefits (TEB) website to transfer the benefits to your children. As previously stated, information about the Post-9/11 GI Bill has been readily and publicly available, and you could have used those available resources to educate yourself on your educational benefits.

Furthermore, your application also claim that "In April of 2010, I contacted Headquarters U.S. Marine Corps, Manpower and Reserve Affairs, (Code MMOA) to let the Colonels' Monitor know my plans for retirement. I told him (I can't remember the Colonel's name) that I planned on retiring in February or March 2011...When he realized that I was a Reservist who was "taken into sanctuary" beyond 18 years of active duty, he immediately said that I will be directed to retire on the date when I reached 20 years of active duty. That date is 30 August 2010." Between April 2010 and August 2010 when you retired, there is no evidence to indicate that you attempted to transfer your Post-9/11 GI Bill benefits to your dependents, and you were not required to obligate any additional service obligation.

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.

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.

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,



ROBERT J. O'NEILL
Executive Director

Enclosure: HQMC Memo 7220 MPO of 18 Jul 14