



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

JET
Docket No. NR3933-14
12 Nov 14

[REDACTED]

[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 12 November 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 CNRFC ltr 5420 Ser N1/0885 of 25 Aug 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. Information about the Post-9/11 GI Bill has been readily and publicly available, and you could have used available resources to educate yourself on your educational benefits.

Your application claims, essentially, that the "last three years of reserve service (JAN 2011 to JAN 2014) to be counted towards my Post 9/11 GI Bill eligibility." On 14 January 2011 you initially submitted a request to transfer your Post-9/11 GI Bill to your dependents. You were rejected for having failed to be obligated to three years of satisfactory drill participation. Petitioner further claims that he was "never notified by email, postal mail, or telephone that my application was rejected and therefore never took immediate action to resolve the issue." The Board found that NAVADMIN 203/09 published in June 2009 provided the procedures members are required to follow to transfer the Post-9/11 GI Bill benefits to their family members. One of those essential procedures states "Members may check TEB periodically for status of their transfer application. If request is disapproved, member must take corrective action and reapply."

Furthermore, the Board members took into consideration, that on 8 February 2014 Petitioner resubmitted his request to transfer his Post-9/11 GI Bill benefits to his dependents and was approved on 9 February 2014, subsequently acquiring an obligation end date of 9 February 2018.

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 black ink, appearing to read "R. J. O'Neill", written in a cursive style.

ROBERT J. O'NEILL
Executive Director

Enclosure: CNRFC ltr 5420 Ser N1/0885 of 25 Aug 14