



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

MEH  
Docket No. 9247-08  
24 Mar 09



Dear [REDACTED]

This is in reference to your application for correction of 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 23 March 2009. 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 NSTC memo 1533 OD4 of 12 Dec 08, a copy of which is attached.

The Board also considered your request for a personal appearance, however it 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 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 opinion provided by the Naval Service Training Command (NSTC). The Board found there was no error or injustice in the decision to disenroll you from the Naval Reserve Officers Training Corps (NROTC) unit at [REDACTED] and there was no error

or injustice in the decision to require reimbursement for the educational costs expended on your behalf.

The Board found that the regulations implementing the Naval Reserve Officers Training Corps (NROTC) scholarship program provide that a scholarship recipient who fails to complete the program requirements as specified in the scholarship agreement shall, at the discretion of the Secretary of the Navy, either serve on active duty for a period specified in the agreement or reimburse the United States for the educational costs it has expended on the scholarship recipient's behalf. In such cases, the Secretary of the Navy has the discretion to render a case-by-case determination as to whether the reimbursement requirement and/or the enlisted service requirement should be waived due to mitigating circumstances.

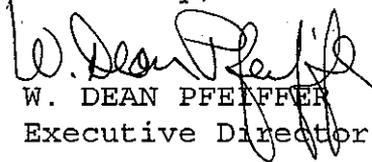
In your case, Mr. ██████████, Assistant Secretary of the Navy (Manpower and Reserve Affairs), acting on behalf of the Secretary of the Navy, approved your disenrollment from the program and ordered reimbursement of scholarship funds on 11 April 2007. The Board found no compelling reason to disturb Mr. ██████████ decision.

The Board gave due consideration to the evidence and arguments made in your application, including the claims that you fully disclosed the pending criminal charges to your unit and that the Navy should have warned you that the criminal charges could jeopardize your security clearance and continuation in the program. However, after review of all the evidence, the Board found there was no error or injustice in the decision to disenroll you or require reimbursement. You received substantial education at government expense before your disenrollment. You were disenrolled for inaptitude/unsuitability reasons before completing the scholarship program. You did not serve on active duty after your disenrollment or otherwise complete the military service obligation specified in the scholarship agreement. On 9 February 2005, you certified that you understood "that if the Secretary of the Navy's decision is recoupment, instead of active enlisted service" you would be "ordered to pay back all tuition costs beginning with the freshmen year and thereafter." You have benefitted and been enriched from the education you received at government expense while the government has not received the benefit of your active service after your disenrollment. The Board finds that, in light of the educational benefit you received, the regulations implementing the NROTC program and the terms of the scholarship agreement, it is not an error or an injustice for the Secretary of the Navy to require reimbursement

of the costs expended by the United States for your education. The Board also finds that a waiver of the reimbursement of those costs is not warranted under the circumstances. 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