



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

MEH
Docket No. 12237-10
3 June 2011

[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 31 May 2011. 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 NPC memo 5420 PERS-911 of 11 Mar 11, a copy of which is attached.

The records show that you entered the Health Professional Scholarship Program in August 2006 for a four year government funded medical school scholarship. You were expected to graduate in May 2010 and begin service on active duty in the US Navy for a specified term. In your scholarship agreement you certified that you understood that you would "incur an eight-year service obligation for any participation in the program," and that "should (you) become unable to commence the period of ADSO specified in this service agreement or become unable to complete my education program, (you) agree to reimburse the United States for the total cost (lump sum plus interest) of advanced education paid by the US Government as specified in 10 U.S.C. 2005."

When your medical issues threatened to interfere with your future ability to fulfill your contract, you were given the option to: (a) request review of your physical condition by the


Navy's Physical Evaluation Board (PEB) for a final determination of your physical qualifications for retention or (b) tender your resignation. On 30 November 2009, after having received approximately seven semesters of medical education at government expense, you elected to tender your resignation. Pursuant to your request, you were discharged from the Navy Reserve on 1 January 2010 and an education debt was established. According to your application, approximately five months later, in May 2010, you made a full medical recovery and completed your final semester of medical school at your own expense. The Board determined that your decision to tender your resignation was voluntary. Because you voluntarily resigned, and no PEB was held, there is no way to know what the outcome of the PEB would have been, especially in light of your subsequent medical recovery.

The Board understood and gave due consideration to the evidence and arguments to the effect that you were "repeatedly told you only needed to worry about paying for the remaining semester of medical school education and living expenses." However, after review of all the evidence, the Board found insufficient evidence to support that claim. Moreover, the scholarship agreement was already clear on the reimbursement expectations. The Board noted that you received substantial education at government expense and did not thereafter serve on active duty or otherwise complete any part of the military service obligation specified in your contract. You benefitted and were enriched from the education you received at government expense while the government did not receive the benefit of your active service. You completed the remainder of your medical school and, with that qualification, you have been able to secure civilian employment as a psychiatry resident at the Medical University of South Carolina in Charleston SC. Under these circumstances, the Board found no error or injustice in the records pertaining to your educational debt. Additionally, the Board found that your request to fulfill your educational debt by civilian employment at the Medical University of South Carolina and/or the Charleston VA Hospital should not be approved for the reasons stated in the advisory opinion. 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