



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

JLP:ddj
Docket No: 4482-99
21 September 1999



This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 September 1999. 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 BUPERS memorandum 1780 PERS 604 of 24 August 1999, 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 this connection, the Board substantially concurred with the comments contained 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 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



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1780
PERS-604
24 Aug 99

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-00ZCB)

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO OS1(SW)
[REDACTED]

Ref: (a) NPC memo 5420 PERS-00ZCB of 6 Aug 99
(b) Title 38, United States Code, Chapter 32
(c) Title 38, United States Code, Chapter 30

1. The following is provided in response to reference (a):

a. Eligibility for Federally Legislated Educational Benefit Programs is determined by the member's initial entry onto active duty. Per reference (b), the educational program available to [REDACTED] when he entered active duty on 6 September 1979 was the Veterans Educational Assistance Program (VEAP). VEAP was available to members who entered the military for the first time between 1 January 1977 and 30 June 1985. Legislation closed VEAP to new enrollments on 30 June 1985, but reopened it for five months from 28 October 1986 to 31 March 1987. Members who did not enroll before these deadlines lost their eligibility.

b. The Montgomery GI Bill (MGIB) Program is available for members who entered active duty for the first time after 30 June 1985. Reference (c), the law governing the MGIB Program, does not provide for conversion of VEAP eligibility to the MGIB Program except for individuals separating from active duty under the Voluntary Separation Incentive, Special Separation Benefit, or certain involuntary separations.

c. Based on [REDACTED] initial date on active duty, the educational program available to him was VEAP. A review of his record indicates he did not enroll in VEAP before the legislated deadline and is not eligible for VEAP benefits. Further review of OS1(SW) Wells' record indicates he was erroneously enrolled in the MGIB Program on 2 February 1999 based on miscounseling by his servicing Personnel Support Detachment (PSD). He is not eligible to enroll in MGIB Program. His servicing PSD discovered the error and took action to refund OS1(SW) Wells' MGIB contribution. This office verified with the Defense Finance and Accounting Service, Cleveland that his MGIB Program contribution was refunded to him in April 1999. This office recommends denial of OS1(SW) Wells' request to enroll in the MGIB Program.

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2. PERS-604's point of contact is EM1(SW) Thompson who can be reached at (DSN) 882-4262 or (C) (901) 874-4262.



T. J. CEPAR
Captain, U.S. Navy
Director, Navy Drug & Alcohol,
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