



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

JLP:ddj
Docket No: 5458-01
2 October 2001

[REDACTED]

[REDACTED]

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 2 October 2001. 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 6 September 2001, 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
06 Sep 01

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF NAVAL RECORDS

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

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
HMCS WILLIAM D. SUYAT, USN, 548-81-4438

Ref: (a) CNPC memo 5420 PERS-00ZCB of 14 Aug 01
(b) Title 38, United States Code, Chapter 32
(c) Veterans Improvement Act of 1996 (PL 104-275)
(d) Veterans Benefits and Health Care Improvement Act of
2000 (PL 106-419)

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

a. Recommend the Board deny HMCS Suyat's request to enroll in the Veterans Educational Assistance Program (VEAP). Per reference (b), VEAP was available to members who entered the military for the first time between 1 January 1977 and 30 June 1985. It was closed to new enrollments on 30 June 1985, but reopened for five months from 28 October 1986 to 31 March 1987. Members who did not enroll before these deadlines lost their eligibility.

b. Reference (c) offered Montgomery GI Bill (MGIB) Program enrollment to active duty members with money in a VEAP account on 9 October 1996 (date of enactment). Per reference (d), an individual who was a VEAP participant on or before 9 October 1996 and served continuously from that date through at least 1 April 2000 will be allowed an opportunity to convert from VEAP to the MGIB Program. Unfortunately, no provisions were made in references (c) and (d) for members like HMCS Suyat who did not participate in VEAP.

c. DD Form 2057 was used to document member's election to enroll or decline enrollment in VEAP. In some cases, members signed their DD Form 2057 indicating they could enroll at any time while on active duty. The DD Form 2057 submitted by HMCS Suyat indicates he lined out the election to participate in VEAP with a \$25.00 per month allotment and selected the option not to participate at that time. HMCS Suyat states in his DD Form 149 "To participate at a later date was the intention rather than declination." Unfortunately, the fact that a Department of Defense form signed in 1984 states a member can enroll at any time while on active duty does not override a later act of Congress. Reference (b) did not require armed services to keep documentation of a member's election in their service

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS ICO
[REDACTED]

record. There was no requirement for individual counseling for VEAP enrollment upon entry on active duty or during the open period. NAVOP 076/85 (CNO WASHINGTON DC 201132Z JUN 85) advised the deadline for members eligible under VEAP to initially enroll was 30 June 1985. Notification of the open period and final closure of VEAP was given the widest dissemination via NAVOP 110/86 (CNO WASHINGTON DC 301653Z OCT 86), Navy Times article of 10 November 1986 and by placing a statement on the Leave and Earnings Statements of all active duty servicemembers. A second NAVOP was released in March 1987 reminding commanding officers of the pending deadline.

d. Since HMCS [REDACTED] did not enroll in VEAP upon entry to active duty or during the open period, he is not eligible to do so now. Additionally, since HMCS [REDACTED] was not a VEAP participant, he is not eligible for conversion to the MGIB Program.

2. PERS-604's point of contact is Mr. [REDACTED] who can be reached at (DSN) 882-4246 or (C) 901-874-4246.

[REDACTED]

Commander, U.S. Navy
Director, Navy Drug & Alcohol,
Behavioral Health, Federal
Education, & Partnerships
Division (PERS-60)