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

JET
Docket No. NR3753-14
18 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 18 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 HQMC memo 7220 MPO of 7 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.

Your application claims that you injured your knee while you were on active duty; however, as you state "during our pre-deployment training I was then able to take my PFT and CFT which made me eligible to be promoted to CPL during my deployment." You further state, "When I returned in 2013 I dropped to my IRR because there was not enough time left on my contract for me to be able to be promoted to SGT in or to stay in the Marine Corps." The Board found that you voluntarily dropped to the Individual Ready Reserve (IRR). Members may only transfer their Post-9/11 GI Bill benefits if they are on active duty or a part of the Selective Reserve (SELRES). Furthermore, the Board fund that even if you had not dropped to the IRR but was still discharged, you did not have the minimum service requirements to transfer your Post-9/11 GI Bill to your dependents. You did not have 10 years of service prior to your discharge. Therefore, in the Board's view, you are not entitled to transfer benefits and no change to your record is warranted. 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.

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,

ROBERT J. O'NEILL
Executive Director

Enclosure: HQMC memo 7220 MPO of 7 Aug 14