

UNITED STATES COURT OF VETERANS APPEALS

No. 91-1257

KERRY H. CARR, APPELLANT,

v.

JESSE BROWN,  
SECRETARY OF VETERANS AFFAIRS, APPELLEE.

On Appeal from the Board of Veterans' Appeals  
and  
On Appellee's Motion for Summary Affirmance

(Decided March 29, 1993 )

*Kerry H. Carr, pro se.*

*James A. Endicott, Jr., General Counsel, David T. Landers, Acting Assistant General Counsel, Pamela L. Wood, Deputy Assistant General Counsel, and Craig M. Kabatchnick* were on the pleadings for appellee.

Before MANKIN, HOLDAWAY, and IVERS, *Associate Judges.*

HOLDAWAY, *Associate Judge:* Appellant, Kerry H. Carr, appeals a Board of Veterans' Appeals (BVA or Board) decision which determined he was not eligible for educational benefits pursuant to the Montgomery GI Bill-Active Duty Educational Assistance Program, Chapter 30, Title 38, United States Code.

Appellant had active service from June 1974 to May 1990. He received honorable discharges in November 1977, February 1982, and March 1988. However, in May 1990, appellant received a general discharge, under honorable conditions. On July 25, 1990, he applied for Chapter 30 educational benefits. In a letter dated August 13, 1990, the Department of Veterans Affairs (formerly the Veterans' Administration) (VA) Regional Office (RO) explained that appellant was not eligible for Chapter 30 educational benefits because his final discharge was not an honorable discharge.

In response, appellant filed a Notice of Disagreement in August 1990, and contended that he had been told during service that a general discharge would not affect his eligibility for educational benefits. In November 1990, the VARO sent appellant a Statement of the Case confirming the denial of educational benefits. Thereafter, appellant appealed the denial of his

claim. On March 20, 1991, appellant's representative submitted evidence which showed that appellant had received honorable discharges from his first three periods of active service and confirmed that appellant had received a general discharge for his last period of active duty. In June 1991, the BVA determined that appellant was not eligible to receive Chapter 30 educational benefits because "he . . . [did] not have the requisite character of discharge to establish basic eligibility for Chapter 30 educational benefits." *Kerry H. Carr*, BVA 91-39030, at 4 (June 21, 1991). Appellant filed a timely Notice of Appeal.

Eligibility requirements for Chapter 30 educational benefits are codified at 38 U.S.C.A. § 3011 (West 1991). Pursuant to section 3011, the veteran must complete three continuous years of active duty commencing after June 30, 1985, and receive an honorable discharge. Appellant satisfied the first requirement by serving three continuous years of active duty after June 30, 1985. However, appellant did not receive an honorable discharge upon completion of the requisite period of service. Appellant's three honorable discharges were received in November 1977, February 1982, and March 1988. The March 1988 honorable discharge is not based on three years continuous active service commencing after June 30, 1985, and the remaining honorable discharges were granted prior to June 30, 1985. Appellant, therefore, has not met the eligibility requirements to receive Chapter 30 educational benefits.

The Board decision of June 21, 1991 is AFFIRMED.