



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

█
Docket No: 6552-20
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Section 1552 of Title 10, United States Code. After careful and conscientious consideration of relevant portions of your naval record and your application, the Board for Correction of Naval Records (Board) found the evidence submitted insufficient to establish the existence of probable material error or injustice. Consequently, your application has been denied.

You are entitled to have the Board reconsider its decision upon submission of new matters, which will require you to complete and submit a new DD Form 149. New matters are those not previously presented to or 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,

3/23/2022

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Deputy Director
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Enclosure:



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

██████████
Docket No. 6552-20
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD ICO ██████████
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Ref: (a) 10 U.S.C. § 1552
(b) 10 U.S.C. § 8459
(c) 10 U.S.C. § 8462
(d) SECNAVINST 1531.4, U.S. Naval Academy Midshipmen Disenrollment

Encl: (1) DD Form 149
(2) DD Form 214
(3) Petitioner's USNA Summary of Facts and Record Summary
(4) Florida DUI Uniform Traffic Citation, 0338-XBO, 13 March 2012
(5) Office of the Commandant of Midshipmen Memo 1610, subj: Report of Unsatisfactory Conduct in the case of [Petitioner], 10 April 2012
(6) USNA Superintendent Memorandum Report for the Secretary of the Navy 1900 28-365, subj: Recommendation for Disenrollment from the Naval Academy of [Petitioner], 17 April 2012
(7) Petitioner's Memo, subj: Acknowledgment of Options Pertaining to my Separation from the Naval Academy, 17 April 2012
(8) Petitioner's Memo, subj: Show Cause Statement, 20 April 2012
(9) ASN (M&RA) Memo, subj: [Petitioner], 7 May 2012
(10) Order to Seal Records under Section 943.059, ██████████ Statutes, and ██████████ Rule of Criminal Procedure 3.692, in the case of *State of ██████████ vs. [Petitioner]*, in the County Court, Fourteenth Judicial Circuit of the State of ██████████, in and for ██████████ County, Case No. 12-0981-CTMA, 17 May 2013
(11) BCNR Letter JLB Docket No. 4047-15, 12 July 2016
(12) ██████████ Addiction Treatment Letter, re: [Petitioner], 8 December 2017
(13) ██████████ Outpatient Recovery Center Letter, re: [Petitioner], 12 March 2018
(14) DFAS-IN/Debt and Claims Letter, Account Number: ██████████, 6 August 2020
(15) USNA Staff Judge Advocate Memo, subj: Request for Advisory Opinion pertaining to [Petitioner], BCNR Docket No. NR20200006552, 11 December 2020
(16) Crisp and Associates, LLC Letter, subj: Applicant [Petitioner], Docket No. NR20200006552, 12 March 2021
(17) Crisp and Associates, LLC Letter, subj: Applicant [Petitioner], Docket No. NR20200006552, 29 September 2021
(18) Petitioner's Letter, subj: Personal Statement – Applicant: [Petitioner], Docket No: NR20200006552, 20 September 2021
(19) USNA Staff Judge Advocate Memo, subj: Request for Advisory Opinion pertaining

Subj: REVIEW OF NAVAL RECORD ICO [REDACTED]

[REDACTED] USNA, [REDACTED]

to [Petitioner], BCNR Docket No. NR20200006552, 12 November 2021
(20) Crisp and Associates, LLC Letter, subj: Applicant [Petitioner], Docket No.
NR20200006552, 28 December 2021

1. Pursuant to the provisions of reference (a) Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting reconsideration of the Board's previous denial of his request in Docket No. 4047-15 to have his U.S. Naval Academy (USNA) debt for education nullified.
2. The Board reviewed Petitioner's allegations of error or injustice on 6 January 2022 and, pursuant to its regulations, determined that no corrective action should be taken on Petitioner's naval record. Documentary material considered by the Board included the enclosures, relevant portions of Petitioner's naval records, and applicable statutes, regulations and policies.
3. The Board, having reviewed all of the evidence of record pertaining to Petitioner's allegations of error or injustice, finds as follows:
 - a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.
 - b. Petitioner was appointed as a midshipman at the USNA on 1 July 2009. See enclosure (2).
 - c. On 16 January 2010, Petitioner received a major disciplinary infraction for being under the influence of alcohol while on duty. See enclosure (3).
 - d. On 13 March 2012, Petitioner was arrested by civilian authorities in [REDACTED] for driving while under the influence of alcohol (DUI) with a blood alcohol concentration (BAC) of .212.¹ See enclosure (4).
 - e. On 26 March 2012, Petitioner pled guilty to DUI and "Major extreme drinking (BAC > .2)"² during an administrative conduct hearing before the USNA Deputy Commandant. See enclosure (3).
 - f. On 9 April 2012, the USNA Commandant conducted a personal hearing with Petitioner and reviewed his case file and overall record. Based upon this interview and review, the Commandant determined that Petitioner failed to adhere to USNA standards based upon his DUI. See enclosure (5).
 - g. By memorandum dated 10 April 2012, the Commandant forwarded Petitioner's unsatisfactory conduct case to the USNA Superintendent for review and approval. In addition to finding that Petitioner failed to adhere to USNA standards based upon his DUI, the Commandant also noted that this DUI arrest was the latest in a history of unsatisfactory conduct for Petitioner,

¹ It appears from the evidence that Petitioner was not ultimately convicted of DUI, but rather of distracted driving.

² DUI is a 6K level offense, while major extreme drinking was a major level offense per COMDTMIDNINST 1610.2. In accordance with paragraph 3.3.a. of COMDTMIDNINST 1610.2, the normal adjudicating authority for a 6K level offense is the USNA Deputy Commandant.

Subj: REVIEW OF NAVAL RECORD IC [REDACTED]
[REDACTED], USNA, [REDACTED]

including a previous major alcohol offense in January 2010 for underage drinking and being under the influence of alcohol while on duty (see paragraph 3c above), and five minor conduct offenses.³ The Commandant recommended that Petitioner be disenrolled from the USNA. See enclosure (5).

h. On 17 April 2012, the USNA Superintendent conducted a personal hearing with Petitioner, after which he also determined Petitioner's conduct to be unsatisfactory. See enclosure (6).

i. By memorandum dated 17 April 2012, the USNA Superintendent recommended to the Secretary of the Navy (SECNAV) that Petitioner be discharged from the USNA in accordance with reference (d). Prior to forwarding this recommendation to the SECNAV, however, it was provided to Petitioner with the opportunity to show cause for retention at the USNA. See enclosure (6).

j. By signature dated 17 April 2012, Petitioner acknowledged his options pertaining to his separation from the USNA. Specifically, he acknowledged that he incurred a two-year enlisted active duty service obligation by starting his first class academic year; that he may be ordered to active duty enlisted service or be required to reimburse the government for the cost of his USMA education in the amount of \$123,205.78 if the SECNAV determined that he should be separated from the USNA; and that he may petition the SECNAV for waiver of active duty service or monetary recoupment. After indicating his understanding of these options, Petitioner stated his preference to serve on active duty to fulfill his obligation. See enclosure (7).

k. By memorandum dated 20 April 2012, Petitioner provided a statement purporting to show cause for his retention at the USNA. He did not deny the conduct alleged against him or suggest that it was acceptable, but he did assert that there were extenuating and mitigating circumstances that should be considered. Specifically, he claimed to have a serious drinking problem that he was not aware of at the time of his DUI incident. As a result of this drinking problem and circumstances that resulted in his severe dehydration at the time, Petitioner claims that he blacked out and had no recollection of how much he drank or how he ended up driving. Upon his return to USNA, he self-admitted himself to Alcoholics Anonymous, and claimed to have been attending every week since his DUI incident. He acknowledged that he had a problem with alcohol, and that he was determined to beat it. If retained at the USNA, he promised to use his experience to help others struggling with alcohol at USNA or in the Fleet. See enclosure (8).

l. By memorandum dated 7 May 2012, the Assistant Secretary of the Navy for Manpower and Reserve Affairs (ASN (M&RA)) ordered that Petitioner be discharged from the USNA and repay the cost of his educational benefits received while attending USNA in the amount of \$123,205.78. In making this decision, the ASN (M&RA) reviewed the 17 April 2012 report from the USNA Superintendent (see paragraph 3i above), as well as Petitioner's show cause

³ Per enclosure (3), Petitioner's minor conduct offenses included a negligent unauthorized absence (UA) from his military obligations on 12 November 2009; the direct and intentional violation of an order on 7 December 2009; the intentional UA from class on 2 September 2010; a violation of midshipman regulations (with minor effect) by getting a tattoo on 1 January 2011; and a direct and intention violation of an order on 19 January 2011.

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[REDACTED] USNA, [REDACTED]

statement (see paragraph 3k above) and matters submitted by Petitioner's defense attorney submitted via email on 26 April 2012. See enclosure (9).

m. On 7 May 2012, Petitioner's was honorably discharged from the Navy for failure to complete a course of instruction. See enclosure (2).

n. On 17 May 2013, the records concerning Petitioner's arrest for DUI on 13 March 2012 were ordered sealed by the [REDACTED] Fourteenth Judicial Circuit Court. See enclosure (10).

o. On 22 June 2016, the Board denied Petitioner's first request to have his educational debt either adjusted or nullified, as well as to change his reenlistment code, in Docket No. 4047-15. See enclosure (11).

p. By letter dated 8 December 2017, the medical director of the [REDACTED] Addiction Treatment Center in [REDACTED] confirmed that Petitioner was a patient in the residential inpatient program for the treatment of alcoholism and other chemical dependency. Petitioner had been admitted for the inpatient treatment program on 5 December 2017 and was scheduled to be discharged on 2 January 2018. It was reported that Petitioner was participating in all aspects of the program and was demonstrating a willingness and desire for recovery. See enclosure (12).

q. By letter dated 12 March 2018, an Addictions Counselor at the [REDACTED] Outpatient Recovery Center in [REDACTED] provided a status update of Petitioner's participation in the program. She reported that Petitioner had been discharged from the [REDACTED] Addiction Treatment Center and evaluated at [REDACTED] on 31 January 2018. She also reported that Petitioner participated in the [REDACTED] intensive outpatient program (IOP) group between 5 February 2018 and 15 February 2018, and that Petitioner reported that he had been attending outside 12-step meetings and continued working on his recovery.⁴ See enclosure (13).

r. By letter dated 6 August 2020, the Defense Finance and Accounting Service notified Petitioner that his remittance was insufficient to meet his scheduled debt payment and that his account was now delinquent. This letter requested payment of Petitioner's current debt in the amount of \$174,926.85 immediately.⁵ See enclosure (14).

s. On 14 September 2020, Petitioner, through counsel, submitted enclosure (1) requesting reconsideration of the Board's denial of his request to adjust or nullify his educational debt in Docket No. 4047-15. Specifically, Petitioner contends that punishing him for misconduct arising from an alcohol addiction by separating from the USNA and requiring him to repay education costs totaling \$174,926.85 at the time is "excessive and manifestly unjust." He further asserted that the pain from an injury which ended his wrestling career, and the depression that resulted from the potential effect of that injury on Petitioner's naval career, caused him to self-medicate with alcohol. Petitioner noted that he had twice been evaluated by the Substance Abuse and Rehabilitation Program (SARP) while at the USNA, yet never referred for treatment, and that he

⁴ This letter explained that during the rehabilitation/IOP phase of treatment, the patient initially attends five times per week, eventually completing a total of 20-30 sessions over a two-month period, and that each session is for three hours.

⁵ Petitioner's original debt of \$123,205.78 has presumably increased due to the accrual of interest.

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[REDACTED] USNA [REDACTED]

was never evaluated or offered treatment for depression. Petitioner asserts that “[t]his failure on the part of trained professionals to recognize the problem and offer the assistance [he] needed significantly contributed to [Petitioner’s] misconduct and his eventual disenrollment from the Naval Academy.” He claimed to have been sober for more than two years after receiving the necessary treatment to overcome his alcohol addiction. Petitioner provided several character references from his classmates with his application. See enclosure (1).

t. By memorandum dated 11 December 2020, the USNA Staff Judge Advocate (SJA) provided an advisory opinion (AO) for the Board’s consideration recommending that Petitioner’s application be denied. The AO first opined that there was no error or injustice in Petitioner’s disenrollment. Specifically, it noted that the final decision to disenroll Petitioner was made by the ASN (M&RA) in accordance with reference (c), and that the decisions made at the USNA to recommend Petitioner’s disenrollment were made after full consideration of all of the evidence and that the case was processed in accordance with all applicable statutes and regulations. Next, the AO found no reason to relieve Petitioner of his educational debt and/or military service obligation. The AO noted that Petitioner obtained an education benefit in learning and in earning credit hours with a value for which Petitioner must reimburse the government since he failed to do so through commissioned service as most midshipmen do upon graduation from USNA. See enclosure (15).

u. By letter dated 12 March 2021, Petitioner provided a rebuttal to the above referenced AO for the Board’s consideration. This rebuttal including a letter from Petitioner intended to provide more clarity regarding the circumstances of his case and a letter from Petitioner’s counsel directly addressing the AO. Petitioner’s counsel first noted that the AO comment that “there has been no new evidence submitted by [Petitioner] since his previous request in 2016” was inaccurate.⁶ The rebuttal further asserts that “while the decision to disenroll [Petitioner] may have been procedurally accurate, [Petitioner] requests relief based on equity and in the interests of justice,” and reiterated the previously made argument that the combination of disenrolling Petitioner from USNA and requiring him to repay his educational costs is excessive and manifestly unjust. The rebuttal noted that the AO commented on the possibility of repaying Petitioner’s educational debt through enlisted active duty service, but that he was never afforded this opportunity, and contends that the failure to provide Petitioner with this option at the time of his disenrollment constituted a material error and manifest injustice. Finally, the rebuttal noted that the AO referenced several enclosures which were not provided to Petitioner, which prevented him from fully responding to all of the evidenced used against him. See enclosure (16).

v. The enclosures to the AO were provided to Petitioner following receipt of the letter from his counsel indicating that Petitioner did not have access to the references. Petitioner, through counsel, supplemented its rebuttal to the AO after receipt of those enclosures by letter dated 29 September 2021. In this letter, Petitioner’s counsel argued that the recoupment of Petitioner’s educational debt constituted a violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution since he did not have legal representation during the separation proceedings.

⁶ Petitioner’s current application included new evidence regarding his struggle with and treatment for alcohol addiction.

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[REDACTED] USNA, [REDACTED]

Specifically, Petitioner's counsel provided evidence that a Judge Advocate informed him that he could not represent Petitioner at the hearing without first being detailed to the case. See enclosure (17).

w. Along with the letter from his counsel discussed in paragraph 3v above, Petitioner further supplemented his application by letter dated 20 September 2021. In this letter, Petitioner explained that he first began to suffer from depression and alcoholism in 2008 while at the USNA Preparatory School (USNAPS), after he was denied the opportunity to compete athletically in wrestling and his academic accomplishments were negated for reasons beyond his control. Additionally, he asserted that his USNAPS class was notorious, which further contributed to his mental state. Petitioner also provided further clarification of the effects of his shoulder injury, which he asserted would have adversely affected his ability to compete for his desired service assignment. Finally, Petitioner contended that while he was arrested for DUI, he was never convicted for it, but rather received a citation for inattentive and distracted driving, the records for which were sealed. Petitioner contended that he was unknowingly battling major depression and anxiety throughout the 2010-2011 school year, but that he had "given up" drinking during the summer/fall of 2010 due to his wrestling commitment. He does not believe that the impact of his wrestling-related weight fluctuations were well reflected in the SARP questioning of his alcohol usage at the time. Finally, Petitioner contends that he sought to enlist in the Marine Corps and National Guard following his disenrollment from USNA, but was denied enlistment in the former due to his reenlistment code and was informed that service in the latter would not satisfy his repayment obligation. See enclosure (18).

x. By memorandum dated 12 November 2021, the USNA SJA provided another AO for the Board's consideration in light of the new materials received from Petitioner. This AO continued to recommend that Petitioner's request be denied. The AO reiterated its previous statements that the decision to disenroll Petitioner from the USNA was properly made by the ASN (M&RA) in accordance with reference (c) and that the USNA-level decisions were made in accordance with all applicable statutes and regulations, and that there was no reason to relieve Petitioner of his obligation to repay the cost of the educational benefits provided to Petitioner by the USNA. In response to Petitioner's argument that he should have been allowed to fulfill his obligation through active duty service instead of monetary recoupment, the AO noted that the authority to make that decision is vested in the ASN (M&RA) per references (b) and (d). The AO further opined that the decision to order financial recoupment rather than active duty service was reasonable due to Petitioner's history of misconduct, noting that Petitioner had accumulated 245 demerits and two alcohol-related incidents by the time of his disenrollment from the USNA. It further noted that Petitioner's two alcohol-related incidents themselves would likely have resulted in his separation if they had occurred while he was in an enlisted status in the Navy, and that the ASN (M&RA) was under no obligation to order Petitioner to active duty service when the evidence suggested that he may continue to be a disciplinary problem for the Navy. With regard to the argument that Petitioner was deprived of due process by being denied counsel during the conduct hearing, the AO noted that Petitioner's counsel conceded in her 12 March 2021 letter that the decision to disenroll Petitioner was procedurally correct. The AO further commented that Petitioner's claim that he was never "notified of a right to counsel throughout the separation process" was false, as his counsel's own submission included an e-mail exchange with a Navy defense counsel dated 21 March 2012 well before the Superintendent's

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[REDACTED] USNA, [REDACTED]

recommendation or the ASN (M&RA)'s action. Finally, the AO noted that there is no formal right to a defense counsel in the conduct hearing process. See enclosure (19).

y. By letter dated 28 December 2021, Petitioner, through counsel, provided a rebuttal to the AO discussed in paragraph 3x above for the Board's consideration. This rebuttal first noted that the AO erroneously stated that Petitioner committed a DUI offense, noting that while Petitioner was arrested for a suspected DUI he was convicted of a traffic violation for distracted driving and that all records related to the arrest and criminal case were sealed by a court order. The rebuttal also commented that USNA only became aware of the incident and arrest because Petitioner voluntarily notified his chain of command. Petitioner's counsel contends that had the hearing been conducted after the conclusion of Petitioner's civilian criminal case, it likely would have resulted in a different outcome since the evidence did not support a finding that Petitioner committed a DUI. In response to the AO's comment that "USNA had ample resources and care options available to [Petitioner] while he was a midshipman had he chosen to seek help," the rebuttal commented that those resources were never made available to Petitioner and contends that those resources failed Petitioner by failing to identify Petitioner's problem or offer treatment options to him. Finally, the rebuttal questioned the conclusion of the AO that Petitioner's two alcohol-related incidents likely would have resulted in his administrative separation if they had occurred while Petitioner was in an enlisted status. Accordingly, the rebuttal reiterates the previously made argument that the combination of disenrollment and recoument is excessive and disproportionate to what he would have received as an enlisted members, and is therefore manifestly unjust. See enclosure (20).

z. Reference (b) provides that a midshipman or former midshipman who does not complete the course of instruction at the USNA and agreed upon service obligation, or the alternative obligation for enlisted active duty service at the discretion of the Secretary, shall be subject to the repayment provisions of 37 U.S.C. § 303a(e) or 37 U.S.C. § 373. Reference (d) provides that "[i]f the ASN(M&RA) determines that a midshipman has breached [the service agreement described in reference (b)], he or she will order the midshipman to active duty unless the midshipman is not suitable for duty. It further provides that pursuant to 10 U.S.C. § 2005 and 37 U.S.C. §303a (e) , "disenrolled first and second class midshipmen who are not ordered to active duty or recommended for a waiver, will be required to reimburse the government for the cost of their advanced education."

CONCLUSION:

Upon careful review and consideration of all of the evidence of record, the Board found insufficient evidence of any probably material error or injustice warranting relief.

There was no error or injustice in Petitioner's disenrollment from the USNA or in resulting requirement that he repay his educational expenses. Petitioner's counsel conceded that there was no procedural errors in his disenrollment or in the assignment of his obligation to repay his educational debt. The Board's review confirms this to be true, as the Board found that Petitioner's administrative conduct proceedings complied with applicable regulations. The evidence reflects that Petitioner pled guilty to the offenses of DUI and "Major extreme drinking (BAC > .2)" during his conduct hearing. These findings followed a previous major conduct

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[REDACTED] USNA, [REDACTED]

violation for an alcohol violation and five minor conduct violations during his time at USNA. He subsequently received a personal hearing by both the USNA Commandant and the Superintendent. After his personal hearing with the USNA Superintendent, Petitioner was notified of the Superintendent's intent to recommend his disenrollment from USNA and that he may either be ordered to enlist active duty or required to reimburse the government for the cost of his education in the amount of \$123,205.78, and informed that he could prepare a show cause statement for the SECNAV setting forth the reasons why he should not be discharged. Petitioner availed himself of this opportunity with the assistance of counsel. Petitioner's show cause statement and the matters that he submitted with that statement, were not, however, sufficient to convince the ASN (M&RA) that Petitioner should not be discharged despite his extensive and serious misconduct. The Board found no error or injustice in this process.

The Board found the contention of Petitioner's counsel that Petitioner did not commit a DUI offense to be entirely without merit. The actual offense for which Petitioner ultimately was convicted by the civilian court and the sealed status of his arrest and court records are entirely irrelevant in this regard. Petitioner pled guilty to DUI during his administrative conduct hearing before the USNA Deputy Commandant. Additionally, there was evidence of a traffic citation in the record which reflected Petitioner's BAC as .212 at the time of measurement following his arrest. This evidence alone would be more than sufficient to sustain the findings in Petitioner's case. Accordingly, the Board found the assertion of Petitioner's counsel that the Petitioner's conduct hearing likely would have reached a different conclusion if it had been conducted after his civilian criminal case to be without merit.

The Board also found the contention made by Petitioner's counsel that Petitioner would not have been separated for similar conduct if he were enlisted to be without merit. Petitioner's DUI offense with a .212 BAC was not his first alcohol-related offense, as Petitioner had a previous major conduct offense for being drunk on duty. Even if the career of an enlisted member survived a single incident of being drunk on duty, which is by no means certain, the Board had no doubt that a second alcohol offense of the type that Petitioner committed would result in an involuntary separation. In fact, an enlisted member involuntarily separated for the same misconduct that Petitioner engaged in almost certainly would to receive a less favorable characterization of service than the honorable discharge that Petitioner received. Accordingly, the Board did not find the natural consequences of Petitioner's misconduct to be manifestly unjust.

The Board found the contention of Petitioner's counsel that Petitioner was denied the due process right to counsel to be without merit. First, there is no formal right to a defense counsel during administrative conduct hearings. This is not surprising, since no person can be deprived of any liberty or property right from the conduct proceedings. Further, Petitioner's counsel did not provide evidence that Petitioner was denied counsel during the conduct hearing. Rather, she provided evidence that a particular Judge Advocate stated that he could not represent Petitioner in the hearing unless or until he was properly detailed to the case. This provided evidence that Petitioner was well aware of his right to seek counsel. There is no evidence or reason to believe that Petitioner could not obtain counsel. Next, the evidence reflects that Petitioner obtained counsel, and that matters submitted by Petitioner's counsel were submitted via e-mail to the ASN (M&RA) on 26 April 2012 (see enclosure (9)) and were considered by the ASN (M&RA) in

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[REDACTED] USNA, [REDACTED]

making his decision regarding Petitioner's disenrollment from USNA and repayment option. This was the first decision in the process which had any potential of depriving Petitioner of any property rights. Accordingly, Petitioner was not deprived of due process in the separation process.

The Board found no error or injustice in the decision not to permit Petitioner to repay his educational expenses through enlisted active duty service. In accordance with reference (d), "if the ASN(M&RA) determines that a midshipman has breached [his service agreement], he or she will order the midshipman to active duty unless the midshipman is not suitable for duty. Petitioner's extensive and serious misconduct made it obvious that Petitioner was not suited for military service. Petitioner signed a contract promising to either repay the cost of his educational expenses if disenrolled through enlisted active duty service or recoupment of the cost of those expenses, and this option was at the discretion of the ASN (M&RA) per reference (d). The ASN (M&RA) was not obligated to enlist a likely disciplinary problem into the ranks to recoup the expenses incurred in Petitioner's USNA education, especially since Petitioner's disciplinary issues would be more damaging to readiness in the Fleet than they would be in Bancroft Hall. The decision to require recoupment of Petitioner's educational expenses rather than enlisted active duty service was not only reasonable, but was rather obvious under the circumstances.

Finally, the Board did not find Petitioner's disenrollment from USNA and requirement to repay the cost of his educational expenses to be disproportionate or inherently unjust under the circumstances. With very few exceptions, every midshipman who is disenrolled from the USNA after the start of their second class year for a non-medical reason is required to repay the expenses incurred in their USNA education either through enlisted active duty service or monetary recoupment. As discussed above, repayment of Petitioner's debt through active duty service was not a realistic option under the circumstances. Additionally, Petitioner received a benefit of extraordinary value at government expense while at the USNA. Many of the credits that he earned may be transferred to a civilian institution to be applied toward an academic degree. It is not in any way unjust that Petitioner is expected to repay the government for these expenditures since the government will not benefit from Petitioner's service as a commissioned officer due entirely to Petitioner's own misconduct. The Board considered Petitioner's contention that his alcohol use was self-medication for the physical and mental pain resulting from his injury, but questioned the credibility of this claim given his statement in enclosure (8) that he rarely consumed alcohol. The Board also considered Petitioner's contention that he was an alcoholic and that he was punished for this disease that he could not control. In this regard, the Board applauds Petitioner's recognition of his disease and his efforts to regain control of his life. However, this was not Petitioner's first alcohol incident, and he had the opportunity to seek help while at USNA. The Board does not accept Petitioner's contention that USNA SARP professionals failed him in this regard, as those professionals could only respond to the issue as it was presented to them by Petitioner. Finally, as mentioned above, Petitioner likely would have been discharged with a lesser characterization of service for similar misconduct if he served under different circumstances. Accordingly, the Board found no injustice whatsoever in the fact that Petitioner was required to repay the cost of his educational expenses in addition to his disenrollment from USNA. This is the natural, expected, and agreed upon consequence of Petitioner's own conduct.

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[REDACTED] USNA, [REDACTED]

RECOMMENDATION:

In view of the above, the Board recommends that no corrective action be taken on Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above titled matter.

5. The foregoing action of the Board is submitted for your review and action.

3/1/2022

[REDACTED]
Executive Director

ACTING ASSISTANT SECRETARY OF THE NAVY (MANPOWER AND RESERVE AFFAIRS) DECISION:

Board Recommendation Approved (Deny Relief)

Petitioner's Request Approved (Grant Relief – Waive Recoupment Obligation)

Petitioner's Request Partially Approved (Partial Relief – Petitioner's Recoupment Obligation Modified as follows: _____)

23 Mar 2022

[REDACTED]
Acting Assistant Secretary of the Navy
(Manpower and Reserve Affairs)