



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

█  
Docket No: 7105-20  
Ref: Signature Date

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Dear █

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.

A three-member panel of the Board, sitting in executive session, considered your application on 20 July 2021. The names and votes of the members of the panel will be furnished upon request. 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, relevant portions of your naval record, and applicable statutes, regulations, and policies, as well as the 8 December 2020 advisory opinion (AO) furnished by the Navy Office of Legal Counsel (PERS-00J) and your response.

The Board carefully considered your request to remove your 15 December 2016 Report of Non-judicial Punishment (NJP) and 17 March 2017 Final Civil Action Report (FCAR). You also request to delete paragraph 1.a. of your 19 March 2018 Administrative Separation letter. The Board considered your contentions that your Report of NJP and FCAR notes a prior arrest that did not occur. You also contend that your Administrative Separation letter notes an arrest that did not occur, paragraph 1.a. makes a series of false accusations, you were not command referred to the substance abuse rehabilitation program, and it alludes to two FCARs that are actually the same report. As evidence, you furnished record searches from the state of Connecticut.

The Board, however, substantially concurred with the AO. In this regard, the Board noted that you received non-judicial punishment (NJP) for violating Article 111, Uniformed Code of Military Justice (UCMJ), specifically, you drove your vehicle while under the influence of alcohol. The Board also noted that you were properly notified of and acknowledged your Article 31, UCMJ rights, you accepted NJP, your commanding officer found you guilty, and you did not appeal your CO's decision. The Board noted, too, that you apologized and took full

responsibility for your conduct. The Board determined that your Commanding Officer had sufficient evidence and acted within his discretionary authority pursuant to Article 15, the *Manual for Courts-Marital* (2016 ed.) by finding you guilty at NJP.

Concerning your claims that no arrest occurred, the Board concurred with the AO that because your charges were dismissed, you are unlikely to have a criminal history on record. The Board determined that the lack of criminal history does not constitute sufficient evidence that an arrest did not occur. The Board also noted that according to MILPERSMAN 1161-010, commanders must keep PERS-834 informed of the status and disposition of all misconduct where an officer has been arrested in connection with or charged with a civil offense. The Board also determined that your FCAR accurately reflected the status and disposition of your misconduct and constitutes a valid part of your official record. Moreover, the Board relies upon a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. Accordingly, the Board concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action.

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,

8/9/2021

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Executive Director

Signed by: █