



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

█
Docket No: 241-21
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 28 September 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.

On 25 April 2013, you were arrested for driving under the influence (DUI). As a result, you received an Administrative Remarks Page 11 6105 counseling entry on 26 April 2013 for being not recommended for reenlistment due to receiving three DUIs during your Marine Corps career. You further received an adverse fitness report covering the period 1 April 2013 to 17 May 2013 for the same. The Board carefully considered your request to remove from your official military personnel file (OMPF) the Page 11 and adverse fitness report as the state of █ reduced the DUI charge to Reckless Driving.

The Board noted a civilian court's decision to reduce the charge and the actions of the Marine Corps are separate and distinct and neither is dependent upon the other for legitimacy. Based on the known facts, your Commanding Officer determined that the █ Police arrested you for driving under the influence of alcohol, your third DUI charge during your Marine Corps career. The Board further noted that you did not submit a rebuttal to the Page 11 nor a written statement to the adverse fitness report.

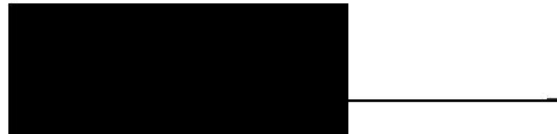
The Board determined that it could not take action on your request to remove the fitness report as you have not exhausted all administrative remedies prior to petitioning the Board. Specifically, your request to remove the fitness report should be submitted to the Commandant of the Marine Corps Performance Evaluation Review Board (MMRP) for consideration.

Regarding the 6105 counseling entry, the Board determined the evidence provided does not overcome the presumption of regularity to prove that the action taken in your case, to issue a Page 11, was improper. The Board thus concluded that your Page 11 entry does not constitute a material error or injustice warranting removal from your record.

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,

10/7/2021

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Executive Director

Signed by: 