



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

Docket No. 1391-21
Ref: Signature Date

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.

A three-member panel of the Board, sitting in executive session, considered your application on 7 October 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.

The Board carefully considered your request to remove the 14 August 2018 Administrative Remarks (Page 11) 6105 counseling entry for violation of Article 92 of the Uniform Code of Military Justice from your official military personnel file (OMPF). You contend the Page 11 counseling entry is in error because it states you received a driving under the influence (DUI) charge but you contend you received a reckless driving charge.

The Board noted that according to the court documents you submitted, you were arrested for DUI on 10 June 2017 but, as a result of a plea bargain, on 20 July 2018, you pled "no contest" to the lesser charge of reckless driving and the DUI charge was dismissed/stricken. The Board further noted the language of the counseling entry that states, "I have been found guilty by [REDACTED] County of reckless driving after a plea bargain of a DUI." The Board determined the entry appropriately reflects the facts as explained in the court documents and concluded there was insufficient evidence of an error or injustice warranting removal.

The Board further determined the counseling entry creates a permanent record of a matter your commanding officer deemed significant enough to document. The Board also determined the entry met the 6105 counseling requirements detailed in MCO 1900.16 (MARCORSEPMAN).

Specifically, the Board noted the entry provided written notification concerning your deficiencies, specific recommendations for corrective action indicating any assistance available, a comprehensive explanation of the consequences of failure to successfully take the recommended corrective action, and a reasonable opportunity to undertake the recommended corrective action. You were afforded the opportunity to rebut the counseling, but you declined to provide a rebuttal for inclusion in your OMPF. The Board thus concluded there is insufficient evidence of material error 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,

10/26/2021

Executive Director