



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

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Docket No: 1889-21  
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 2 November 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 your 9 April 2018 Administrative Remarks (page 11) 6105 counseling entry. The Board considered your contentions that according to Article 134 (reckless endangerment), Uniform Code of Military Justice (UCMJ) all of the elements have to be met to be considered reckless endangerment and your behavior did not meet all of the four elements. You claim that a police officer found you behind the wheel of your vehicle with the motor running, you fell asleep in your vehicle that was parked on the road in front of a friend's house, and the officer placed you under arrest for driving while impaired (DWI). You explained that your case was continued several times, you appeared in court on 12 November 2020, you agreed to a lesser charge, and the State charged you with reckless driving. You also claim that you did not receive an adverse fitness report during the reporting period.

The Board, however, determined that your page 11 entry is valid. In this regard, the Board noted that you were arrested 18 March 2018 and charged with DWI and that you pled guilty to the lesser charge of reckless driving. The Board also noted that pursuant to the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a page 11 entry counseling you for being found by local police driving while impaired asleep in your vehicle,

behind the wheel, with the engine running, in a roadway with the strong odor of alcohol. The entry also noted that you informed the police officer that you pulled over because you had a few. The Board, noted too, that you were properly counseled for your alcohol related incident and determined that the contested entry was written and issued according to the Marine Corps Individual Records Administration Manual (IRAM). Specifically, the entry provided written notification concerning your deficiencies, specific recommendations for corrective action, where to seek assistance, the consequences for failure to take corrective action, and it afforded you the opportunity to submit a rebuttal. Moreover, your commanding officer (CO) determined that your misconduct was a matter essential to record, as it was his/her right to do. The Board noted, too, that you acknowledged your page 11 entry and elected not to submit a statement. The Board also determined that your election not to submit a statement indicates that you fully understood the basis for your page 11 entry. The Board further determined that you were not the subject of punitive action, therefore, the standard of evidence that you reference does not apply to administrative actions. Additionally, the Marine Corps Performance Evaluation System Manual provides reporting seniors discretion to submit an adverse fitness report when a Marine receives a page 11 entry during the reporting period. Thus, the lack of an adverse fitness report does not invalidate your page 11 entry. Moreover, your CO had sufficient knowledge of the circumstances and acted within his/her discretionary authority when determining that your page 11 entry was warranted. 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,

11/19/2021

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Executive Director

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