



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

█
Docket No: 3019-21

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.

A three-member panel of the Board, sitting in executive session, considered your application on 14 December 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 10 June 2021 advisory opinion (AO) furnished by the Marine Corps Military Personnel Law Branch (JPL). The AO was provided to you on 22 June 2021, and you were given 30 days in which to submit a response. Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board carefully considered your request to remove your 13 January 2021 Administrative Remarks (page 11) 6105 entry. The Board considered your contentions that you were found not guilty in your civilian criminal case for driving while intoxicated (DWI) and that the counseling entry goes against the court's finding. You claim that you were pulled over off base for DWI and have maintained that you were not guilty.

The Board, however, substantially concurred with the AO that your page 11 entry is valid. In this regard, the Board noted that pursuant to the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), you were issued a page 11 entry counseling you for your alcohol related incident. Specifically, for physically operating a vehicle with a blood alcohol concentration (BAC) of .09 percent. The Board 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 also noted that you acknowledged the page 11 entry and you elected not to submit a statement.

The Board noted that the Department of Defense (DOD) Instruction 6055.14 prohibits impaired driving by all military personnel at any time, on or off a DOD installation. The Board determined that your formal counseling was not dependent on the outcome of your civilian criminal case. The Board also determined that your CO had sufficient knowledge of the facts and acted within his discretionary authority when determined 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,

1/11/2022

[REDACTED]

Deputy Director

Signed by: [REDACTED]