



to seek assistance, the consequence for failing to take corrective action, and it afforded you the opportunity to submit a rebuttal. Moreover, your commanding officer (CO) signed the entry and determined that that your substandard performance was a matter that formed an essential and permanent part of your military record, as it was his/her right to do.

The Board also considered the evidence you furnished, specifically, the motion that your charge be reduced to reckless driving based upon your BAC of 0.08% and guilty plea. The Board, however, determined that your page 11 entry is valid. In this regard, the Department of Defense Instruction 6055.04 prohibits service members from operating a motor vehicle while impaired or intoxicated by alcohol or drugs and does not require a specific BAC. The Board also determined that a civil conviction for DUI is not required for a CO to determine that a counseling entry is warranted and your CO was not required to delay the issuance of your counseling pending the outcome of your motion to amend your charges in civil court. 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,

2/25/2022

