



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

█
Docket No: 6970-21
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 1 March 2022. 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 7 September 2020, you were arrested for driving with a blood alcohol content of .196. Your Commanding Officer (CO) imposed non-judicial punishment (NJP) on 16 November 2020 and counseled you on 20 November 2020 for violating Article 113 of the Uniform Code of Military Justice (UCMJ). You were subsequently given an adverse fitness report as a result of the arrest, NJP, and counseling.

The Board carefully considered your request to remove the unit punishment book (UPB) entry documenting your 16 November 2020 NJP, Administrative Remarks Page 11 counseling entries of 20 November 2020, and the adverse fitness report covering the period 25 September 2020 to 20 November 2020. You argue the adverse documentation should be removed because on 24 June 2022 the Eastern District Court of Tennessee found you guilty of reckless driving, and dismissed the charge of driving while under the influence of alcohol.

The Board noted a civilian court dismissal 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 you violated Article 113 of the UCMJ, Drunken or reckless operation of a vehicle. The Board further noted that you voluntarily accepted NJP and

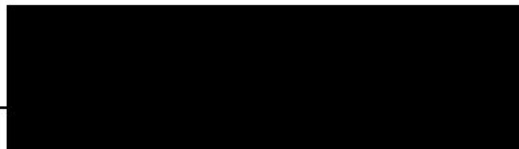
you chose not to appeal the imposition of NJP, nor did you submit a rebuttal to the Page 11 entries. Finally, the Board took note of your statement in your adverse fitness report; "I understand and have taken full responsibility of the terrible decision I made to violate this article."

The Board determined that the evidence provided does not overcome the presumption of regularity to prove that the actions taken in your case, to impose NJP and issue an adverse fitness report and Page 11 counseling, were improper. The Board thus concluded that the UPB entry, Page 11 counseling entries, and adverse fitness report do not constitute 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,

3/9/2022

A large black rectangular redaction box covering the signature of the Executive Director.

Executive Director

A black rectangular redaction box covering the contact information of the Executive Director.