



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

█
Docket No: 7296-21
Ref: Signature Date



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.

In December 2020, you were attached to Marine Unmanned Aerial Vehicle Squadron 1 (VMU-1). VMU-1 ordered all Marines of the unit to submit a COVID-19 mitigation worksheet and request approval for travel more than 200 miles from Marine Corps Air Station (MCAS) █ during any 48-hour liberty period. During liberty weekend on 5 December 2020, you traveled 229 miles away from MCAS █ and civilian police arrested you for suspicion of driving under the influence of alcohol (DUI) and not driving with proper lights. On 24 February 2021, you underwent non-judicial punishment (NJP) for violating Article 113 (Drunken or reckless operation of a vehicle) and Article 92 (Failure to Obey an Order or Regulation) of the Uniform Code of Military Justice (UCMJ). Your Commanding Officer (CO) found you guilty of both charges and awarded you a punitive letter of reprimand (PLOR). You were subsequently given an adverse fitness report, covering the period 29 May 2020 to 1 March 2021, as a result of the arrest, NJP, and PLOR. Your CO did not recommended your separation for cause; on 29 April 2021, the Commandant of the Marine Corps agreed, closing the case and directing that the adverse material be placed in your official military personnel file (OMPF). On 20 September

2021, you were discharged with an honorable characterization of service and transferred to the Individual Ready Reserve.

The Board carefully considered your request to remove the adverse documentation to include the Report of NJP, adverse fitness report, Substance Abuse Counseling Center recommendation, and PLOR from your OMPF. You argue the adverse documentation should be removed because on 8 June 2021, the [REDACTED], [REDACTED] Court dismissed the DUI charge and you plead responsible only for driving without proper lights.

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. Moreover, the Board noted that you did violate Article 92 by traveling over 200 miles without command approval. The Board further noted that you voluntarily accepted NJP and you chose not to appeal the imposition of NJP. Finally, the Board took notice of your statement in your adverse fitness report; "I made the decision to travel to the [REDACTED] [REDACTED] area, which was approximately 30 miles out-of-bounds in relation to Marine Corps Air Station [REDACTED]. I made the decision to drink, and I made the decision to get behind the wheel of my friend's pickup truck".

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, to award a PLOR, and to issue an adverse fitness report were erroneous or unjust. The Board thus concluded that the adverse documentation does 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,

3/10/2022

[REDACTED]

Executive Director

[REDACTED]