



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

█  
Docket No: 1149-22  
Ref: Signature Date

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Dear █

This letter is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 16 May 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.

The Board carefully considered your request to remove your 13 October 2021 unit punishment book (UPB) entry. The Board noted that, on 13 Oct 2021, you received NJP for violation of the Uniform Code of Military Justice (UCMJ), Article 90 (Willfully disobeying a superior commissioned officer) by disobeying the District Commanding Officers' Policy Statement on Responsible Use of Alcohol by operating a motor vehicle while under the influence of alcohol. You were advised of your rights under Art 31, UCMJ, given the opportunity to consult with a military lawyer, and advised of your right to demand trial by court-martial in lieu of NJP. You agreed to accept NJP and were advised of your right to appeal on 13 Oct 2021. As punishment, you were reduced to corporal (E-4).


The Board considered your contentions that you were not the driver, that you were not guilty of the offenses but plead guilty due to the advice of your lawyer, and that you were never read your rights. The Board also considered your assertion that you were not in the right mental state and that you suffered from untreated childhood Post-Traumatic Stress Disorder (PTSD). You also provided evidence that your misconduct, that formed the basis for your NJP, was dismissed in civilian court.

After consideration of the evidence in your case, the Board concluded insufficient evidence exists to support relief. In regards to your contention that you were found not guilty by the court, the board noted that the burden of proof at a state criminal proceeding is beyond a reasonable doubt, while the burden of proof for an NJP hearing is by preponderance of the evidence. Therefore, the Board concluded that the mere fact your charge was dismissed by civilian authorities does not equate to a similar finding for your NJP proceedings. Absent evidence that proves by a preponderance that you did not violate Article 90, the Board determined the decision to impose NJP on you remains valid.

Regarding your assertions of due process violations, innocence, and a mental health condition, the Board determined insufficient evidence exists to support relief. The Board relies on a presumption of regularity to support the official actions of public officers and, in the absence of substantial evidence to the contrary, will presume that they have properly discharged their official duties. The Board noted that you provided no evidence, other than your statement and civilian court decision, to support your assertions of error and injustice. Accordingly, relying on the available evidence and applying liberal consideration, the Board concluded there was insufficient evidence of an error or injustice that warrants removal of the contested UPB entry.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

 Recoverable Signature

[Redacted Signature]

Executive Director

Signed by: [Redacted Name]