



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

██████████
Docket No. 1222-22
Ref: Signature Date

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Dear Petitioner:

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 19 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 also considered the 29 March 2022 advisory opinion (AO) furnished by Headquarters, Marine Corps Military Personnel Law Branch (JPL). Although you were afforded an opportunity to submit a rebuttal, you did not do so.

The Board determined your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your 16 June 2020 nonjudicial punishment (NJP) and all other records related to the violations of the Uniform Code of Military Justice, Articles 92 and 111. Specifically, you received NJP for recklessly operating a motor vehicle, with the headlights off, while under the influence with a blood alcohol content over the legal limit. The Board considered your contention it was an injustice to administer NJP while your civilian case was still pending in the civilian court system because you should not have been punished for the offenses prior to final judgment. You also argue that the charges were ultimately dismissed by the civilian court.

The Board, however, substantially concurred with the AO. In this regard, the Board determined the Commanding Officer decided you were involved in an alcohol-related incident and decided

NJP was an appropriate means to document the misconduct. Further, the Board noted subsequent civilian court action does not preclude the NJP nor does the eventual dismissal require the Board to set aside the NJP. Based on the available evidence, the Board concluded there was insufficient evidence of an error or injustice to warrant granting your requested relief.

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,

6/15/2022

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