



lawyer, you acknowledged your right to appeal, and you elected not to appeal your commanding officer's (CO's) finding of guilt at NJP.

The Board considered the civil court documents you furnished, however, the Board determined that your CO's discretionary authority is not limited nor bound by the outcome of civil court proceedings. The Board also noted that according to the *Manual for Courts-Martial* (MCM) (2019 ed.), Article 119(b) applies to any person subject to the UCMJ, who has the duty for the care of a child under the age of 16 years, and who, through design or culpable negligence, endangers the child's mental or physical health, safety, or welfare. The elements of Article 119b provides that the accused had a duty for the care of a certain child; that the child was under the age of 16 years; and that the accused endangered the child's mental or physical health, safety, or welfare through design or culpable negligence. Based upon the elements contained in the MCM, the Board determined the charge for violating Article 119b was supported by a preponderance of the evidence based on your impaired driving. The Board also determined that your page 11 entries and NJP are valid, and your NJP was conducted pursuant to the MCM. Moreover, 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 found your evidence insufficient to overcome this presumption. 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,

6/6/2022

