



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

█  
Docket No. 3296-22  
Ref: Signature Date

█  
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 30 June 2022. The names and votes of the members of the panel will be furnished upon request. Your allegations of 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 reviewed your request to remove your nonjudicial punishment (NJP) held on 16 October 2020. The Board considered your contention that the NJP states you were convicted for Article 134, Uniform Code of Military Justice (UMCJ) when you never received the charge.

On 1 October 2020, you were arrested for operating a motor vehicle under the influence of alcohol with a blood alcohol content of .22. While committing this offense, you were in your Marine Corps uniform and found to have your trousers undone by the arresting officer. As a result, NJP was imposed on you for violations of Articles 92, 113, and 134 under the UCMJ on 16 October 2020. The Article 134 charge was based on the discrediting nature of your driving under the influence, erratic driving, and exposure of your undergarments had on the Marine Corps. The Board noted that prior to the imposition of NJP, you acknowledged your Article 31, UCMJ Rights, you consulted with counsel, and you accepted NJP. Although you contend that you were not charged with Article 134, the Board noted that you acknowledged your understanding of the charges against you, as noted on your Unit Punishment Book. The Board thus determined that the CO had the authority to impose NJP based on his position and the nature of the offenses. The Board further determined that your NJP is valid, was conducted in accordance with the Manual for Courts-Martial, and your CO was justified in taking appropriate

measures given your actions. The Board further noted that you were subsequently issued an administrative counseling and an adverse fitness report, all to which you accepted the outcome of the NJP and took full responsibility for your actions; a clear indication that you were fully aware of the charges before you. Based on this evidence, the Board found no error or injustice to warrant removal of the NJP in question or the Article 134 charge. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit 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,

7/19/2022

