



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

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Docket No. 3393-22
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 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 determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully reviewed your request to remove your nonjudicial punishment (NJP) held on 17 March 2022 and to reinstate your rank to Sergeant/E-5. The Board considered your contentions that the NJP was adjudicated before you were afforded the opportunity to attend Base Magistrate Court and, when you expressed to your command that you had an upcoming hearing, you were told "you're guilty, just accept it and move on." You assert you have taken full responsibility for your actions, but believe you were not impaired at the time. In addition, you argue that your career has been stellar; however, you made a mistake but were not able to communicate that in your defense.

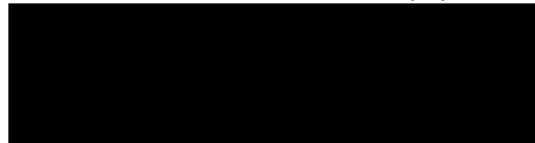
The Board noted that prior to the imposition of NJP, you acknowledged your Article 31, UCMJ Rights, you consulted with counsel, and you accepted NJP. After NJP was imposed, you appealed your Commanding Officer's (CO) finding of guilt at NJP but were denied. In considering the evidence, the Board also noted that although you contend that you were not

impaired, you were detained by the Base Provost Marshal Office for operating a motor vehicle with an alcohol concentration equivalent to 0.12%. The Board thus determined that the CO had the authority to impose NJP based on his position and the nature of the offense. The Board further determined that your NJP is valid, was conducted in accordance with the Manual for Courts-Martial, your CO was justified in taking appropriate measures given your actions and the evidence, and the reduction in rank was appropriately awarded. The Board noted that you were subsequently issued an administrative counseling, a promotion restriction, and an adverse fitness report, all to which you accepted the outcome of the NJP and took full responsibility for your actions. As a result, the Board concluded insufficient evidence of error or injustice exists to warrant removal of the NJP in question from your record or to reinstate you to the rank of Sergeant. 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

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Executive Director

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