



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

██████████  
Docket No. 504-23  
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 7 February 2023. 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 modify your 17 February 2022 unit punishment book (UPB)/non-judicial punishment (NJP) by removing any language that refers to you to being drunk or under the influence of alcohol and corrected to show that you were charged for reckless driving. The Board considered your contention that you were convicted of reckless driving and not driving under the influence by a civilian court. You claim that a judge has order the removal and expungement of documents accusing you of being drunk or under the influence of alcohol from your record, therefore, your official military personnel file should reflect the same. You claim that you sought military counsel and you were not advised to request that the command wait for adjudication from the civil courts before imposing NJP.

The Board noted that you received NJP for violating Uniform Code of Military Justice (UCMJ) Article 113, by operating a vehicle while under the influence of alcohol and you were drunk or impaired with a blood alcohol concentration level of .13 percent. The Board also noted that you acknowledged your Article 31, UCMJ Rights, you accepted NJP, certified that you were given the opportunity to consult with a military lawyer, you acknowledged your right to appeal, and

you elected not to appeal your commanding officer's (CO) finding of guilt at NJP. The Board determined that your NJP was conducted pursuant to the *Manual for Courts-Martial* (2019 ed.).

Regarding your request to modify your UPB to reflect reckless driving, the Board determined that your conviction of a lesser charge and the purported expungement of your criminal record by the civil court does not apply to your official military record, it does not invalidate your charges at NJP or warrant modification to the charges. In addition, there are no regulations that prohibited your CO from imposing NJP, based on a preponderance of the evidence prior to a civil court hearing. The Board also determined that your CO acted properly and within his discretionary authority when determining by a preponderance of the evidence that NJP was warranted for violating Article 113, UCMJ. 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,

3/1/2023

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Deputy Director

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