



Article 31 and acknowledged your right to demand trial by court martial in lieu of NJP. As punishment, you were reduced to E-4. You were also placed on restriction and given extra punitive duties for 45 days, which was suspended.

However, the Board substantially concurred with the AO that, pursuant to the Manual for Courts Martial and Title 10, U.S.C. 877, a person need not personally perform the acts necessary to constitute an offense to be guilty of that offense. Further, the AO notes your command concluded you were responsible for the drunken operation of a vehicle, even if you weren't driving the vehicle. In regards to your claim that the driver of the vehicle told you he was sober, the Board determined it does not render the Command's decision to NJP you as inappropriate based upon your responsibility to look after and lead those appointed under you, as stated in the Unit Punishment Book (UPB). Moreover, the Board noted that you waived any issues regarding the specificity of the charges when you agreed to accept NJP and later declined to submit an appeal. Finally, the Board determined that the Marine Corps properly followed all of its procedures for awarding an NJP. You were advised of your right to refuse NJP and demand trial by court-martial in lieu of NJP, but you chose not to. You were also given an opportunity to consult counsel prior to accepting NJP. You agreed to accept NJP subject to your right of appeal, but you did not appeal. The Board thus determined that your Commanding Officer was well within his discretionary authority to impose NJP. As a result, the Board thus concluded that there is no probable material error or injustice warranting removal of your NJP or associated documents from your record. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. 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,

11/23/2023



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Executive Director

Signed by: 