



In regards to your contention that your case was dismissed by the civilian court and that you were not charged, the Board noted that military and state justice systems are separate jurisdictions. Each retains the independent prerogative to process misconduct as they deem appropriate and, because each system has independent jurisdiction, they may reach differing conclusions. Thus, the Board determined the Commanding Officer (CO) was within his authority to find you guilty of Article 92, UCMJ despite a contrary decision by the State court. Moreover, the Board noted the fact that the [REDACTED] court allowed you to participate in a Military Diversion Program and dismissed your case upon successful completion of the program does not negate evidence that you were driving under the influence of alcohol or the CO's finding at NJP. Further, the Board noted you waived any issues regarding the specificity of the charges when you agreed to accept NJP and later declined to submit an appeal. The Board determined the Marine Corps properly followed all of its procedures for awarding an NJP. The Board thus determined your NJP was conducted in accordance with the Manual for Courts-Martial (2019 ed.).

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 the removal of the NJP or any associated documents. 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,

2/27/2024

