



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. 7344-24
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 25 July 2024. The names and votes of the members of the panel will be furnished upon request. Your allegations of error and 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 considered your request to set aside the nonjudicial punishment (NJP) imposed on 22 August 2022 due to dismissal of the charges by █ on 10 July 2024. Further, you contend the NJP should be set aside because it is currently preventing you from reenlisting.

The Board noted you do not dispute the charges¹ you were found guilty of at NJP -- not in an appeal of the NJP, in rebuttal to the Administrative Remarks (Page 11) counseling entry that followed the NJP, or in a statement in the adverse fitness report that documented the NJP and reduction in rank. Rather, you rely on the court's dismissal of the charges which, as reflected in the █ document you provided as supporting evidence, were dismissed in response to defense motion to dismiss being granted and the state's motion to continue being denied. However, the Board noted subsequent civilian court action does not preclude the NJP nor does the eventual dismissal require the Board to set aside the NJP. Additionally, the Board noted you indicated "Other Mental Health" in block 14 of the DD Form 149 and, although you do not

¹ Violations of Article 133 (Drunken or reckless operation of a vehicle...) and Article 114 (Endangerment offenses) of the Uniform Code of Military Justice.

elaborate or state a contention regarding your mental health, the Board considered the mental health outpatient office and clinic notes provided. The Board, in its review of the documents, noted the alcohol related incident which was the impetus of the NJP, by your report to the therapist, appears to be the onset of the "Other Mental Health" issue. Therefore, the Board determined it was not relevant to whether you committed the misconduct that forms the basis of your NJP. As a result, the Board concluded there was insufficient evidence of an error or injustice to warrant setting aside the NJP. 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,

8/8/2024

