



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

██████████
Docket No. 11151-24
Ref: Signature Date

██████████
██████████
██████████

Dear ██████████,

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 21 January 2025. 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 remove your 8 June 2018 Unit Punishment Book / nonjudicial punishment (NJP). The Board considered that you were arrested on suspicion of Driving Under the Influence (DUI) on 23 February 2018. You claim that you entered a plea of no-contest for reckless driving in the civilian court, which resulted in adjudication being withheld. You contend that you were not charged with DUI, and you accepted NJP believing it was the right course of action. You also claim the NJP has caused you to be passed over for promotion four times and is holding you back in your career.

The Board noted the ██████████ DUI Uniform Traffic Citation indicating "D.U.I. . . ." and refusal to submit to a lawful breath blood or urine test. The Board also noted the ██████████ Judgment and Sentence document indicating a "No Contest Plea". The Board noted, too, that you were sentenced to six months' probation, one day in jail, 50 hours of community service, fines and other special conditions of your probation.

The Board determined that your NJP is valid in accordance with the *Manual for Courts Martial* (2018 ed.). In this regard, the Board noted that you received NJP for violating Article 111, Uniform Code of Military Justice (UCMJ) for operating a vehicle in a reckless manner while

under the influence. The Board also noted that you were advised of your Article 31, UCMJ Rights, you accepted NJP, certified that you were afforded the opportunity to consult with a military lawyer, and you declined to appeal your commanding officer's finding of guilt. Article 111, UCMJ applies to any person subject to the UCMJ that operates or physically controls any vehicle, aircraft, or vessel in a reckless or wanton manner or while impaired by a substance and does not require a conviction for DUI. The Board also determined that your commanding officer acted within his discretionary authority and relied on a preponderance of evidence when finding that you operated your vehicle while impaired by a substance. Moreover, the findings by the civilian court have no bearing on your commanding officer's authority to impose NJP. The Board relies on a presumption of regularity to support the official actions of public officers, in the absence of substantial evidence to the contrary, the Board will presume that they have properly discharged their official duties. The Board found your evidence insufficient to overcome this presumption. The Board thus concluded that there is no probable material error, substantive inaccuracy, or injustice warranting corrective action. 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,

2/6/2025

Deputy Director

Signed by: