



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

██████████  
Docket No. 11233-24  
Ref: Signature Date

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Dear Petitioner:

This letter is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. After careful and conscientious consideration of the entire record, the Board for Correction of Naval Records (Board) found the evidence submitted was 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 11 February 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 determined that your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove your 18 September 2020 Unit Punishment Book (UPB); which documents your non-judicial punishment (NJP). The Board also considered your request to remove the 18 September 2020 Administrative Remarks (Page 11) 6105 counseling entry. The Board considered your contentions of innocence regarding the incident which led to NJP; including improper use of the breathalyzer by the First Sergeant in violation of Depot Order 5350.7a and incorrect breathalyzer results which you assert were far below the intoxication limit as stated in the Article 112 of the Uniform Code of Military Justice (UCMJ) of the *Manual for Courts-Martial*. You further assert that the Depot Order is meant to prevent false positives caused by certain foods and liquids, and subsequent medical evaluations determined you were not under the influence. Additionally, you claim your security clearance was suspended due to the incident but was reinstated instantly by the Defense Counterintelligence and Security Agency after you provided a statement.

The Board noted, while a Sergeant, on 20 September 2020, you received NJP for violating Articles 92 (Failure to Obey Order) and 112 (Drunkenness or Other Incapacitation Offenses) of the UCMJ. Specifically, on or about 10 September 2020, you checked in with the Fleet Antiterrorism Security Team Company Europe for Duty Noncommissioned Officer (DNCO) while under the influence of alcohol and were found drunk while reporting for duty as the DNCO. You were advised of your Article 31 rights and your right to demand a trial by court-martial in lieu of NJP. You also certified that you had the opportunity to consult with a military lawyer and accepted NJP, choosing not to appeal. Consequently, you were reduced to Corporal (E-4), received forfeiture of pay amounting to \$1317 per month for two months (total \$2634), and were awarded 45 days of restriction and extra punitive duties. The forfeiture of pay was suspended for six months, unless vacated sooner, and the reduction was remitted without further action. Subsequently, on 18 September 2020, you also received an Administrative Remarks (Page 11) 6105 counseling entry for your NJP for your violation of Articles 92 and 112 and other incapacitation offenses of the UCMJ; as well as a Promotion Restriction counseling for six months due to NJP. The Board noted you signed both counseling entries and choose not to make a statement. Finally, as a result of the above mentioned NJP, you also received an adverse Grade Change (GC) Fitness Report for setting a poor example and judgment. The Reporting Senior (RS) commented that you received NJP for being found drunk while on duty and failing to report as the oncoming duty NCO. The Reviewing Officer (RO) concurred with the RS in rendering the report adverse in accordance with relevant directives and the Board also noted, the Third Officer Sighter adjudicated the report further indicating that you made no statement of rebuttal to the RS and RO portions of the report, and no factual differences were adjudicated; as the adversity documents in this report were uncontested and supported by the factual record.

The Board noted pursuant to MCO 5300.17A, an Alcohol Screening Program (ASP), is a unit-level deterrence tool that is meant to identify alcohol misuse and direct appropriate intervention before any career or life-altering incidents occur. The Board determined your claims do not provide substantial evidence to prove that the ASP protocols were violated or misapplied in your case. Moreover, the Board found no evidence that the commanding officer (CO) abused his discretion or that his decision was unjust or materially in error. The Board determined that the NJP was conducted according to the applicable Manual for Courts-Martial; which grants commanders wide discretion in imposing NJP. 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. Thus, the Board determined your CO had sufficient evidence, acted within his discretionary authority, and conducted your NJP pursuant to the Manual for Courts-Martial. The Board 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.

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,

3/6/2025

