



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

██████████  
Docket No. 104-25  
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 20 March 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.

On 22 February 2023, following a unit function, you were arrested by local civilian police for driving a motor vehicle while under the influence of alcohol (DUI). On 18 May 2023, you underwent nonjudicial punishment (NJP) for violating Article 92 – failure to obey an order or regulation, and Article 113 Drunken or reckless operation of a vehicle of the Uniform Code of Military Justice (UCMJ). You also received a 6105 counseling entry on 18 May 2023 documenting the NJP and an adverse fitness report covering the period 1 July 2022 to 18 May 2023.

The Board carefully considered your request to remove the aforementioned NJP from your naval record. You contend the NJP is invalid as you were never guilty of DUI and the ██████████, ██████████ Court expunged your civilian record of the DUI charge.

The Board noted a civilian court dismissal, and the actions of the Marine Corps are separate and distinct, and neither is dependent upon the other for legitimacy. Based on the known facts, your commanding officer determined that you violated Article 113 of the UCMJ, when you were arrested. The Board further noted that you acknowledged your Article 31, UCMJ rights, accepted NJP, certified that you were given the opportunity to consult with a military lawyer,

acknowledged your right to appeal, and you elected not to appeal your commanding officer's finding of guilt at NJP. In addition, the Board determined that your commanding officer acted within his discretionary authority and conducted your NJP pursuant to the Manual for Courts-Martial (2012 ed.). Moreover, the Board noted you admitted in your statement in response to the adverse fitness report that you "made a bad judgment call to drive" after having alcoholic beverages. Consequently, the Board determined that the evidence provided does not overcome the presumption of regularity to prove that the actions taken in your case, to impose NJP and issue a counseling entry, were improper. The Board concluded that your NJP and counseling entry do not constitute a material error or injustice warranting removal from your naval record.

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,

4/5/2025

