



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

██████████
Docket No. 990-25
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.

Although your application was not filed in a timely manner, the Board found it in the interest of justice to waive the statute of limitations and consider your application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 11 June 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 your personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined a personal appearance was not necessary and considered your case based on the evidence of record.

The Board, having reviewed all the facts of record pertaining to your allegations of error and injustice, found as follows:

On 30 September 2015, you reported for duty as Military Police at ██████████
██████████. According to your fitness report ending 31 March 2017, you served as the "second in-command, either as Patrol Supervisor or Military Police Desk Sergeant, assuming [the] role responsibility of On-duty Watch Commander as needed." Further, your billet description stated you oversaw "the conduct of daily Garrison Law Enforcement Operations;" supervised and assisted in the "enforcement of various federal, state, and military laws and regulations;" and reviewed "Military Police Incident Reports and criminal investigations."

On or about 16 April 2017, you were arrested and processed for going 80 mph in a 30 mph zone and, “when you performed a breathalyzer test” you were “found to have a BAC of 0.18.”

On 26 May 2017, you were the subject of squadron-level nonjudicial punishment (NJP) and were found guilty of drunken or reckless operation of a vehicle and awarded reduction in rank, forfeiture of pay, and 45 days restriction and extra duty, with all but 25 days suspended for six months. You elected not to appeal the NJP.

On 26 May 2017, you received an Administrative Remarks (6105) counseling entry regarding the misconduct and a Page 11 entry acknowledging your understanding that you are eligible but not recommended for promotion to sergeant for a period of six months due to your NJP. You chose not to make a statement in rebuttal to either.

A grade change (GC) fitness report was issued upon the occasion of your reduction in rank for the reporting period 1 April 2017 to 26 May 2017. The report was adverse “due to [your] off-base arrest by civilian law enforcement authorities for an alcohol related matter.” You availed yourself of the opportunity to provide a statement in response to the adverse report.

On 11 December 2017, a State of [REDACTED], County of [REDACTED], Summary Court Judge found that “the below charge(s) under the jurisdiction of this Court was ended by dismissal, *nolle prosequi*, or the defendant was found not guilty on 11/7/2017, and the defendant is entitled to have all records...relating to this offense expunged and destroyed...at no cost to the accused.” As a result, your arrest charge for “DUI/Driving under the influence, .16 or higher, 1st offense” was expunged.

On 12 December 2017, you were released from active duty with an honorable characterization of service at the completion of your required active service.

The Board carefully considered your request to: (1) remove the fitness report for the period ending 31 March 2017; (2) remove, set aside, or otherwise overturn the NJP imposed on 26 May 2017, restore your rank as of the date you were demoted to corporal, and direct back pay and entitlements until the date of your end of active service; and (3) remove any and all related adverse material. You contend the “fundamental irregularities in the command’s execution of processes” have “operated to prejudice” your substantial rights. Further, you contend the material errors and injustices have caused you irreparable harm. Specifically, you contend your Commanding Officer (CO) wrongfully imposed Article 15 UCMJ proceedings and NJP for alleged actions when “those very charges were dismissed by the governing civilian law enforcement authorities” – not as part of any plea negotiations but based on the unlawful action of the arresting officers. Additionally, you contend the command used the wrong punitive article – Article 92 vice Article 111 – so the charge is fatally flawed because it failed to provide you proper notice, due process, or state an offense. Flowing from the erroneous NJP, you contend the CO improperly lowered your fitness report “from the relevant time period ending 31 March 2017¹,” thus rendering the report adverse. You specifically contend the report ending 31 March

¹ The Board noted your fitness report ending 31 March 2017 is a non-observed annual report for the reporting period 1 February 2017 to 31 March 2017. This report period does not include the date of the NJP. However, your record

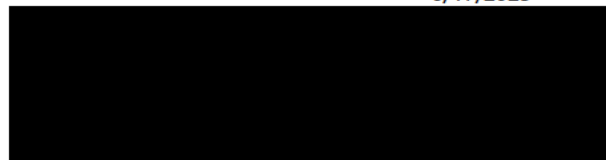
2017 should be removed because it is predicated, in great part, on a fatally flawed NJP which was not supported by a command investigation or preliminary inquiry. You also contend your command leadership, which refused to conduct its own investigation in accordance with the JAG Manual or Rules for Court Martial (RCM) 303, wanted to “punish” you before your EAS [End of Active Service] and pressured you to accept the Article 15 process. Lastly, you contend your service in the Marine Corps “has been nothing short of honorable.”

The Board noted you did not dispute the charges you were found guilty of at NJP -- not in an appeal of the NJP, in rebuttal to the counseling entries that followed the NJP, or in your statement in the adverse fitness report² that documented the NJP and reduction in rank – nor do you dispute them now. Rather, you rely on the court’s expungement of the DUI charges from your record which you contend, without supporting evidence, stemmed from the “unlawful action of the arresting officers.” 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. The Board further noted RCM 303, and the JAG Manual do not require a formal and/or written inquiry/investigation. The Board also noted the Manual for Courts-Martial only requires the Unit Punishment Book (UPB) to list the UCMJ articles allegedly violated and a summary of the offense, to include date, time, and place of the alleged offense. The Board determined the UPB entry adequately placed you on notice of the offense that you were suspected of violating, especially in light of your assigned duties and responsibilities. Lastly, the Board, noting you provided no supporting evidence, determined your contentions that the command only wanted to punish you before your EAS and pressured you to accept NJP lacked merit. Reviewing your contentions through the lens of your billet, Military Police Patrol Supervisor, the Board determined the decision to impose NJP was in the interest of good order and discipline and concluded, based on the available evidence, there was insufficient evidence of an error or injustice to warrant granting your requested relief to remove, set aside, or overturn the NJP imposed on 26 May 2017 or remove the related adverse material, to include the fitness report issued on the occasion of your grade change and imposition of NJP.


In the absence of sufficient new evidence for reconsideration, the decision of the Board is final, and your only recourse would be to seek relief, at no cost to the Board, from a court of appropriate jurisdiction.

Sincerely,

6/17/2025



Deputy Director

Signed by: 

indicates you received a not observed, adverse GC fitness report for the period 1 April 2017 to 26 May 2017 after receiving disciplinary action.

² In your fitness report statement, you commented you had “not been convicted of anything off base” but you do not dispute that you were going 80 mph in a 30 mph zone or that you had a BAC of 0.18.