



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. 1838-25
Ref: Signature Date

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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 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 carefully considered your request to remove your 8 February 2023 unit punishment book (UPB)/non-judicial punishment (NJP). The Board considered your statement that you were detained on or about 29 January 2023 for allegedly driving under the influence because you were in a parked vehicle. You claim the police could not justifiably determine if you drove to the location or not but still proceeded to arrest you. You contend that you received NJP and reduction in rank without an actual conviction from the arresting agency. You also contend that it cannot be proven that you were driving under the influence. You also claim that you did not commit this act, your lawyer notified you that your case was being thrown out due to insufficient evidence, and no record of the arrest exists. Additionally, the NJP has forced you to request a waiver for reenlistment that is still pending. As evidence, you provided correspondence from the Superior Court of █, County of █.

The Board noted that you received NJP for violating Uniform Code of Military Justice (UCMJ) Article 92 by wrongfully operating a vehicle while impaired. Your Commanding Officer (CO) found you guilty at NJP, awarded forfeitures of pay, restriction, and reduction in rate, which he suspended for six months. The Board also 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 CO's finding of guilt at NJP. The Board found no errors in the conduct of your NJP and determined that your CO acted within his discretionary authority, and imposed NJP pursuant to the applicable Manual for Courts-Martial (MCM).

The Board determined that your argument regarding lack of evidence and no record of your arrest lacks merit. In this regard, the MCM does not require you to be driving the vehicle to find that you were in control of the vehicle while impaired. According to the MCM, physical control and actual physical control describes the "present capability and power to dominate, direct, or regulate a vehicle . . . regardless of whether such vehicle . . . is operated." The Board also determined that the MCM does not require a civil conviction to be found in violation of the UCMJ. Moreover, the civil court's purported decision to throw out your charge due to insufficient evidence has no bearing on your CO'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 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,

6/18/2025

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