



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

██████████
Docket No. 2485-25
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.

A three-member panel of the Board, sitting in executive session, considered your application on 24 September 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, having reviewed all the facts of record pertaining to your allegations of error and injustice, found as follows:

On 12 March 2023, you wrongfully operated a motor vehicle under the influence with a blood alcohol level of 0.08.

On 10 April 2023, you were the subject of non-judicial punishment (NJP) and were found guilty of violating a lawful general order by wrongfully operating a motor vehicle under the influence. You were awarded 60 days restriction and forfeiture of pay (suspended for six months) but elected not to appeal the NJP.

On 10 April 2023, you received an Administrative Remarks (Page 11) counseling entry regarding the NJP and, in your rebuttal statement, accepted the consequences of your actions and explained the extenuating circumstances. On the same date, you received a Page 11 entry acknowledging your understanding that you were eligible but not recommended for promotion to gunnery sergeant for a period of six months due to your NJP. You chose not to make a statement in rebuttal to this Page 11 entry.

A Commandant of the Marine Corps Directed (DC) fitness report was issued upon the occasion of your NJP for the reporting period 18 March 2023 to 10 April 2023. The report was adverse due to your battalion level NJP and involvement in an alcohol related offense. You chose not to avail yourself of the opportunity to provide a statement in response to the adverse report.

On 18 September 2024, the Superior Court of [REDACTED], County of [REDACTED], found you had “successfully completed diversion under PC1001.80” and ordered the charge of driving under the influence (DUI) dismissed.

On 1 October 2024, you were released from active duty with an Honorable characterization of service at the completion of your required active service.

On 21 February 2025, the Court granted your petition to have your record of arrest sealed “and the arrest deemed not to have occurred.”

The Board carefully considered your request to: (1) remove the fitness report for the reporting period 18 March 2023 to 10 April 2023; (2) remove the unit punishment book (UPB) entry of 10 April 2023 and repay your forfeited pay; (3) remove the Page 11 entries of 10 April 23 and the associated statement; and (4) restore your MCMAP belt from green to black. You contend you should never have been awarded NJP because you were not convicted of DUI in the [REDACTED] criminal justice system. Further, you contend the NJP should be removed because you were “instructed to accept the NJP by [your] chain of command due to the timelines of preparing for a court martial...and to ensure [you were] able to execute PCS orders to South Korea” and you “reluctantly accepted the NJP before [you were] officially convicted of the charges.” Lastly, you contend the NJP should be “null and void” and all documentation and punishments stemming from the NJP expunged because the state charges were dismissed in September 2024 and the record of the arrest officially sealed in February 2025.

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 Page 11 entries that followed the NJP, or in a statement in the adverse fitness report that documented the NJP. You also dispute them now. Rather, you rely on the court’s dismissal of the DUI charge after completion of diversion. 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 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 grant your request to remove the UPB¹ and Page 11 entries of 10 April 2023. Accordingly, given the totality of the circumstances, the Board determined that your request does not merit relief.

The Board did not consider your request to remove the contested fitness report or restore your MCMAP belt from green to black because you have not exhausted your administrative remedies.

¹ Based on the Board’s finding that your UPB remains appropriate, they found no basis to grant your request for back pay.

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,

11/18/2025

