



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD
ARLINGTON, VA 22204

█
Docket No. 5218-25
Ref: Signature Date

█
█
█

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 case on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 25 February 2026. 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, as well as the 15 May 2025 decision furnished by the Marine Corps Performance Evaluation Review Board (PERB) and the 31 March 2025 advisory opinion (AO) provided to the PERB by the Manpower Management Performance Branch (MMPB-23). Although you were afforded an opportunity to submit a rebuttal to the AO, you chose not to do so.

The Board carefully considered your request to remove the adverse fitness report covering the period of 2 September 2020 to 4 May 2021 from your Official Military Personnel File (OMPF). You contend that: 1) the fitness report was completed prior to the conclusion of your case in civilian court, and that the civilian case was ultimately dismissed, 2) insufficient evidence existed to support the adverse aspect of the fitness report, as evidenced by the civilian court decision, 3) the fitness report was completed without all facts, and primarily without a determination of your guilt or innocence, and 4), the adverse fitness report negatively impacted your reputation, opportunities, and promotion.

The Board, however, concurred with the PERB's decision that you did not demonstrate probable material error, substantive inaccuracy, or injustice warranting removal of your fitness report. Specifically, the Board concurred with the AO, that your contentions lack sufficient merit. As

the AO identified, your fitness report was correctly processed in accordance with the Marine Corps Performance and Evaluation System (PES) Manual, which mandates that a reportable alcohol-related incident occurs when the commander confirms, by preponderance of the evidence, that willful ingestion of alcohol contributed to an incident in which the Marine committed a violation of the Uniform Code of Military Justice (UCMJ), or similar civilian offense. In your case, you accepted non-judicial punishment (NJP), pleaded guilty to violation of Article 133 of the UCMJ, which corresponds to “Drunken or Reckless Operation of a Vehicle, Aircraft, or Vessel,” and chose not to appeal. By virtue of receiving NJP, you were issued an adverse fitness report, as is permissible under the PES Manual. Furthermore, in your response to the fitness report, you took full responsibility for your actions resulting in your misconduct. As such, the Board was left with no doubt as to the fact of your misconduct. Regarding the civilian court decision to dismiss charges, the Board, in agreement with the AO, found the civilian court outcome had no bearing on the validity of your NJP or adverse fitness report. Simply put, the civilian court operates in an entirely different system than that of the Marine Corps, applies a different standard of proof, and its decisions do not negate a finding of misconduct at NJP. The Board thus concluded there is no probable material error, substantive inaccuracy, or injustice warranting removal of your fitness report. Accordingly, given the totality of the circumstances, the Board determined 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,

3/20/2026

