



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

Docket No. 7001-25
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 1 April 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.

The Board determined a personal appearance, with or without counsel, would not materially add to their understanding of the issues involved. Therefore, the Board determined that a personal appearance was not necessary and considered your case based on the evidence of record.

The Board carefully considered your request to remove a record of non-judicial punishment (NJP) and resulting 6105 counseling entry, both dated 11 June 2024, from your Official Military Personnel File (OMPF). You contend that relief is warranted because the civilian charge that formed the basis for the NJP was dismissed and expunged. In support of your contention, you referred to another case previously decided upon by the Board, wherein the Petitioner was granted relief following dismissal of a civilian charge and set-aside of NJP.

The Board, however, found you did not demonstrate probable material error, substantive inaccuracy, or injustice warranting the relief requested. Specifically, the Board found the civilian court decision in your case had no impact on the validity of your NJP or counseling entry. The Board opined, it is immaterial whether or not your civilian charge was dismissed or expunged, as charges in a civilian court are governed by an entity entirely separate from your military chain of command, and serves a different purpose from either NJP or counseling entries. Regarding your NJP, the Board noted you have not disputed your Blood Alcohol Content (BAC) of .12, which exceeded the installation limit. Based on this evidence alone, the Board

determined your commanding officer (CO) had sufficient evidence to issue NJP, and acted within his discretionary authority in doing so. Furthermore, the Board found no error or injustice in the manner in which your NJP was conducted, as, in accordance with the Manual for Courts-Martial (2019 ed.), you acknowledged your Article 31, Uniform Code of Military Justice (UCMJ) Rights, accepted NJP, certified that you were given the opportunity to consult with a military lawyer, acknowledged your right to appeal, and elected not to appeal your commanding officer's (CO's) finding of guilt. Additionally, although you provided a letter from your attorney wherein he stated the civilian judge determined there was no probable cause to arrest you, the Board observed no evidence exists to support this claim apart from your attorney's letter. That evidence, by itself, was not substantial evidence to outweigh the presumption of regularity associated with your CO's determination that you committed the misconduct. Even had the judge made this remark, as explained, it would not impact the validity of your NJP or counseling entry.

Regarding your counseling entry, the Board noted that a valid counseling entry must provide (1) written notification concerning deficiencies, (2) specific recommendations for corrective action, (3) where to seek assistance, (4) consequences for failure to take corrective action, (5) and afford the member an opportunity to submit a rebuttal. It must also be signed by the Marine and CO. The Board found your entry properly documented your misconduct, was made within your CO's discretion, and met all other requirements. You also chose not to make a rebuttal. Therefore, the Board concluded, your counseling entry is without error and remains valid.

Regarding the case you offered as precedent, the Board found that case easily distinguishable from your own. In that case, the NJP was set-aside by the Petitioner's CO prior to the Board's action. It was the set-aside, and not the dismissal of civilian charges, upon which the Board based its relief. Should you desire, you may also request the officer who issued your NJP to now set it aside based on the civilian court decision in your case. However, absent a similar action to set aside your NJP, the Board was not persuaded by the case you presented as precedent. The Board thus concluded, there is no probable material error, substantive inaccuracy, or injustice warranting setting aside the NJP or removing the counseling entry. 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,

4/13/2026

Executive Director

Signed by: