



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

██████████
Docket No. 7901-24
Ref: Signature Date

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Dear Petitioner:

This is in reference to your application for correction of your naval record pursuant to Title 10, United States Code, Section 1552. 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 17 January 2025. The names and votes of the panel members 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 the 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, to include to the 25 July 2018 guidance from the Under Secretary of Defense for Personnel and Readiness regarding equity, injustice or clemency determinations (Wilkie Memo).

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

You enlisted in the Marine Corps and began a period of active duty on 28 November 1988. On 10 April 1989, when you absented yourself without authority until 6 July 1989. After your initial return, you briefly absented yourself from 9 July 1989 to 10 July 1989. Upon your return, you again absented yourself on 13 July 1989 and remained absent until 17 January 1991. Upon your return, you were placed into pre-trial confinement (PTC) and tried before Special Court-Martial (SPCM) on 15 March 1991. You entered voluntary pleas of guilty to three specifications for the offense of unauthorized absence (UA), in violation of Article 86 of the Uniform Code of Military Justice (UCMJ), for a total number of 689 days of absence. You were convicted according to

your pleas; and, after presentation of your sentencing case, to include matters in extenuation and mitigation of your offenses, you were sentenced to five months of confinement with \$300 forfeiture of pay per month and a Bad Conduct Discharge (BCD). The Naval Clemency and Parole Board directed that no clemency be granted in your case and that restoration to active duty was denied. On 17 August 1992, your punitive discharge was executed following completion of appellate review.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Wilkie Memo. These included, but were not limited to, your desire to upgrade your discharge to Honorable and to change your narrative reason for separation. You contend that you experienced circumstances of extreme family hardship during your military service. You describe in detail the high likelihood that your family business would collapse in your absence and your family, to include your parents and siblings, would lose their home to foreclosure. You state that you sought assistance with your superiors but never received proper guidance on submitting a hardship discharge request; which you believe your circumstances would have warranted. You also believe that, due to miscommunication, they did not understand the severity of the situation your family was facing at home. In addition to those factors, you note that you grew up in the United States as an Arabic immigrant, notwithstanding your Christian religious background which required your family to flee ██████████ as evidenced by your hostile country waiver for enlistment. You further attribute your UA misconduct, in part, to lack of understanding of the institutional formalities necessary to properly handle your situation as a newly enlisted Marine and due to making decisions at an accelerated pace without full consideration of consequences to your future beyond your family's crisis. You submitted supporting documentation regarding the nature of the immature brain and decision making issues. For the purpose of clemency and equity consideration, you submitted transcripts from your trial hearing, records of appellate review, additional Department of Justice records which reflect no further criminal record in your post-discharge life, and nearly 30 letters in support of your good character, awards, proof of education, evidence of your children's achievements, your credit history, and photos.

After thorough review, the Board concluded these potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that your misconduct, as evidenced by your SPCM, outweighed these mitigating factors. In making this finding, the Board considered the seriousness of your misconduct and found that your conduct showed a complete disregard for military authority and regulations. The Board also found your conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of your command. The Board noted that you submitted a thoroughly comprehensive compilation of clemency records and arguments which reflect a significant level of rehabilitation. However, the Board also observed that, whereas you were in an absent without leave status for nearly 20 months, you physically reported for full duty fewer than five full months prior to being placed into PTC. The remainder of your service prior to discharge was either in PTC, post-trial confinement, or on appellate leave. In short, you were absent without authority for a period nearly four times the number of days that you actually showed up for duty and your total number of duty days which were not adversely affected by either your UA, confinement, or appellate leave pending discharge, if considered alone, would not have exceeded the 180 days of active duty necessary to warrant a favorable characterization of service. Finally, the Board considered that you were already given an opportunity to submit the family mitigation matters discussed as part of this application during your SPCM sentencing hearing.

