



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

█  
Docket No. 7844-25

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.

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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 9 January 2026. 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 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 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.

You enlisted in the Marine Corps and began a period of active duty on 12 February 2002. On 20 July 2002, you reported to █ for duty.

On 23 September 2002, you began a period of unauthorized absence (UA) which lasted for approximately 325 days. Upon your return, you received non-judicial punishment (NJP) for the period of UA and were subsequently notified of pending administrative separation proceedings by reason of misconduct due to commission of a serious offense. You were informed that the least favorable characterization of service you may receive was under Other Than Honorable (OTH) conditions. You waived your rights to consult with counsel and to request a hearing before an administrative discharge board. The commanding officer (CO) forwarded your administrative separation package to the separation authority (SA) recommending your administrative discharge

from the Navy with an OTH character of service. The SA approved the CO's recommendation and you were so discharged on 24 September 2003.

The Board initially concluded you were appropriately processed for administrative separation based on your extended period of UA and separated with an OTH characterization of service. While the Board carefully considered your contentions that you went on leave when your father had a heart attack in █ were unable to return when your leave expired, were in contact with your First Sergeant and returned as soon as you had the money, and did not fully understand the separation proceedings because of your lack of English language proficiency, it found these arguments to be unpersuasive. The Board found that your misconduct was substantiated by the NJP imposed on you, your command was aware of the circumstances of your UA, and your UA qualified as a serious offense based on the length of your absence. Additionally, the Board noted that you would have continued to receive your active duty pay while you were on leave, and the initial stage of your period of UA before the pay stop was processed. Further, the Board found no evidence that you did not understand the administrative separation process or that you were not afforded all the required due process. In making this finding, the Board considered your statement to the command in which you detailed the circumstances of your UA and informed them you desired to be separated from the Marine Corps to assist your family in █

The Board also considered the totality of the circumstances to determine whether equitable relief was warranted in the interests of justice in accordance with the Wilkie Memo. In this regard, the Board considered, amongst other factors, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your post-service record of accomplishments, your desire to serve in the military as a Judge Advocate, your remorse, and the passage of time since your discharge.

The Board found that the mitigating factors were not nearly sufficient to justify any equitable relief. Specifically, the Board found that the severity of your misconduct far outweighed all of the mitigating factors combined. In particular, the Board noted that the length of your UA increased the severity of your misconduct and therefore established a higher burden to justify equitable relief which you did not satisfy. Moreover, the Board considered that you were fortunate your command chose to impose NJP for a period of UA that normally results in referral to a court-martial. Therefore, the Board found that you already received a large measure of clemency. Further, the Board believed that it would be unjust to characterize your less than honorable service in the same manner as the service of the thousands of service members who, unlike you, honorably completed their enlistments without engaging in misconduct warranting the early curtailment of their service. Accordingly, the Board did not find an upgrade of your discharge to General (Under Honorable Conditions) or Honorable to be warranted in the interests of justice.

Thus, 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,

1/26/2026

