



Docket No. 2096-26
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 application on its merits. A three-member panel of the Board, sitting in executive session, considered your application on 20 February 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 following is the relevant factual background of your case based upon review of your naval record and/or the matters provided with your application:

1. You enlisted in the Navy and began active duty on 18 October 1999.
2. On 9 January 2000, you reported to the [REDACTED] for training. On 12 February 2000, you were advised and acknowledged that you were suspected of larceny of personal property. On 2 March 2000, you began a period of unauthorized absence (UA), which lasted until you surrendered on 23 May 2000.
3. On 27 July 2000, you submitted a written request for an Other Than Honorable (OTH) discharge in order to avoid trial by court-martial for your period of UA, failure to obey an order or regulation, and nine specifications of uttering a check draft or order without sufficient funds, totaling approximately \$1,000. Prior to submitting this request, you conferred with a qualified military lawyer at which time you were advised of your rights and warned of the probable adverse

consequences of accepting such a discharge. Your request was granted and you were so discharged on 28 September 2000.

After careful review, the Board reached the following conclusions and denied your application for relief.

The Board initially concluded you were appropriately processed for administrative separation based on your record of misconduct and request to be discharged in lieu of trial by court-martial. While the Board carefully considered your contention for mitigation, the Board noted you did not deny committing the misconduct that formed the basis for your administrative separation and OTH discharge. Therefore, the Board determined the presumption of regularity applies to your administrative separation and no error exists with your record.

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, desire for a upgrade to your characterization of service, your contentions, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, 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 found that your conduct showed a complete disregard for military authority and regulations. 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. Additionally, the Board was not persuaded by your justification for going UA to assist your mother and leaving your work detail. The Board could not reconcile your implied willingness to request emergency leave, had you been aware of it, with your actions of leaving without informing your chain of command and not returning for approximately four months. Further with regard to the latter UA, the Board noted the evidence shows you attempted to leave the base and were apprehended by law enforcement at the gate entrance. You also reportedly told your supervising petty officer that you were not returning and had in your possession your belongings. Based on these inconsistencies in your current statement, the Board questioned your candor and/or the reliability of your recall in this matter. Moreover, the Board noted you provided no explanation or mitigation evidence to address your extensive history of uttering worthless checks. Therefore, even taking into consideration your youth and immaturity and the circumstances you faced while you were in Naval service due to your mother's homelessness, the Board found that your record of misconduct during your brief period on active duty significantly outweighed the mitigation evidence offered. Finally, the Board also considered that the misconduct that led to your request to be discharged in lieu of trial by court-martial was substantial and determined that you already received a large measure of clemency when the convening authority agreed to administratively separate you in lieu of trial by court-martial, thereby sparing you the stigma of a court-martial conviction and possible punitive discharge.

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,

3/18/2026

