



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

█  
Docket No. 3342-25  
Ref: Signature Date

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF █  
XXX XX █ USMC

Ref: (a) 10 U.S.C. § 1552  
(b) MCO 1900.16 w/CH-3 (MARCORSEPMAN)  
(c) MCO P1070.12K w/CH-2 (IRAM)

Encl: (1) DD Form 149 w/enclosures  
(2) NAVMC 11685, Substance Abuse Control Officer (SACO) Referral Information, 22 Jul 22  
(3) NAVMC 118(11) Administrative Remarks (6105), 29 Jul 22  
(4) NAVMC 10132 Unit Punishment Book, 14 Sep 22  
(5) NAVMC 118(11) Administrative Remarks, Article 112a Violation (6105), 14 Sep 22  
(6) NAVMC 118(11) Administrative Remarks, Promotion Restriction, 14 Sep 22  
(7) NAVMC 118(11) Administrative Remarks (6105), 18 Apr 23  
(8) CO, Navy Drug Screening Laboratory, subj: Thebaine and Papaverine Results for Laboratory Accession Number G2203258117, 3 Apr 24

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with the Board for Correction of Naval Records (the Board), requesting that his naval record be corrected by removing enclosures (3) through (7).

2. The Board, consisting of █, █ and █ reviewed Petitioner's allegations of error and injustice on 10 December 2025 and pursuant to its regulations, determined the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, relevant portions of Petitioner's naval records, and applicable statutes, regulations, and policies.

3. Before applying to this Board, Petitioner has not exhausted all administrative remedies available under existing law and regulations within the Department of the Navy. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds the following:

a. On 22 July 2022, the command Substance Abuse Control Officer (SACO) completed a NAVMC 11685 referral for Petitioner to be screened and assessed by the Substance Abuse Counseling Center due to a positive urinalysis for codeine. During the screening, Petitioner indicated that prescription drugs were involved. The description of the incident states, Petitioner "conducted a OO urinalysis on 6 July 2022 upon checking into the unit. On 21 July 2022, results

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
XXX XX [REDACTED] USMC

came back positive for codeine at 2,776 ng. MRO was conducted and concluded that while SM had been previously prescribed medication it was no longer an active prescription, and he should not have been taking it.” Enclosure (2).

b. On 29 July 2022, pursuant to paragraph 6105 of the Marine Corps Separation and Retirement Manual (MARCORSEPMAN), Petitioner received a 6105 Page 11 entry counseling him for testing positive on or about 21 July 2022 for Codeine on his urinalysis with no valid prescription. Petitioner acknowledged the entry and elected not to submit a statement. The entry provided written notification concerning his deficiencies, specific recommendations for corrective action, where to seek assistance, notification that he is being processed for administrative separation, and it afforded him the opportunity to submit a rebuttal. Enclosure (3).

c. 14 September 2022, Petitioner received nonjudicial punishment (NJP) for violating Uniform Code of Military Justice (UCMJ) Article 112a for testing positive for Codeine. Petitioner was awarded reduction to E-2 and forfeitures of pay. Enclosure (4).

d. On 14 September 2022, pursuant to reference (b) Petitioner was issued a 6105 Page 11 entry documenting his violation of UCMJ Article 112a. On the same date he was notified of his promotion restriction for six months. Petitioner acknowledged the entries and elected not to submit a statement. Enclosures (5) and (6).

e. On 18 April 2023 Petitioner was issued a 6105 Page 11 entry regarding, “YOUR STATUS OF MILITARY SERVICE IN WHICH YOU WILL NOT BE ADMINISTRATIVELY SEPARATED FROM THE UNITED STATES MARINE CORPS.” The entry also references a 17 February 2023 memo regarding poppy seed consumption and Military Drug Testing. Enclosure (7).

f. In a memorandum dated 3 April 2024 from the Navy Drug Screening Laboratory noted that poppy seeds and associated food products may also contain thebaine, and the presence of thebaine in urine can be used as an indicator of poppy seed consumption in cases where Codeine has been previously detected. Based on the concentration of codeine detected and collection date, Petitioner’s specimen was identified for additional supportive testing for thebaine. The memorandum also noted that thebaine is reported as present if the concentration detected was equivalent to or exceeds 5 ng/mL. The author explained that the concentration of codeine in the specimen, amount of poppy seeds consumed, individual metabolism rates, and time of consumption relative to the drug test are important factors to consider. However, if a Medical Review Officer (MRO) or other Service process previously determined this positive codeine result was from a valid prescription or other medical use, the presence or absence of thebaine does not invalidate those determinations. Enclosure (8).

g. In his application, Petitioner contends he tested positive for thebaine, a compound derived from poppy seeds. Due to insufficient evidence, he was retained in the Marine Corps, therefore all records of his NJP and administrative separation require deletion. Petitioner also contends that his urine sample resulted in a false positive for codeine because of poppy seeds. Enclosure (1).

## CONCLUSION

Upon review and consideration of all the evidence of record, the Board finds the existence of an injustice warranting partial relief.

The Board determined that Petitioner's NJP is valid and conducted pursuant to the applicable Manual for Courts-Martial (MCM). Petitioner acknowledged his Article 31, UCMJ Rights, accepted NJP, certified that he was given the opportunity to consult with a military lawyer, acknowledged his right to appeal, and elected not to appeal his commanding officer's (CO) finding of guilt at NJP. Moreover, the Board found no evidence that Petitioner claimed innocent ingestion due to poppy seeds at any time during the NJP process. The Board thus determined that Petitioner's CO relied upon sufficient evidence, which include a positive urine test, and acted within his discretionary authority when imposing NJP and finding Petitioner guilty.

The Board carefully considered the Navy Drug and Screening Laboratory memorandum indicating that Petitioner's urine sample tested positive for thebaine. The Board, however, found the memorandum insufficient to conclude that Petitioner's positive urine test resulted from the ingestion of poppy seeds. The Board found Petitioner's explanation contained in enclosure (2) more genuine and contemporaneous with the positive urinalysis than his future claim that his positive urine test resulted from poppy seed ingestion. While thebaine was present in Petitioner's urine sample, the presence of thebaine does not invalidate the initial determination that Petitioner used expired prescription medication.

The Board determined that Petitioner's assertion that his NJP and administrative separation should be removed due to insufficient evidence and his retention in the Marine Corps lacks merit. Petitioner was properly processed for administrative separation in accordance with reference (b), due to his positive urinalysis. The administrative separation process is separate and distinct from NJP, which is disciplinary in nature and provides commanders with a means to swiftly maintain good order and discipline, whereas administrative separation boards are convened to determine a member's suitability for service. The Board also determined that it is not a material error or injustice for two separate fact-finding bodies to arrive at different conclusions, and the administrative separation board's findings are not binding on the CO's discretionary authority to impose NJP or a CO's finding of guilt at NJP.

Accordingly, the Board found that enclosure (3) and enclosures (5) and (6) were properly written and issued pursuant to paragraph 6105 of reference (b). The Board noted that Petitioner acknowledged the entries, repeatedly elected not to make a statement, failed to make a claim of innocent ingestion, and did not appeal his NJP. Moreover, Petitioner's CO signed each entry, acknowledging his decision that Petitioner's misconduct was a matter essential to document. Notwithstanding the Board's determination that enclosures (3) through (6) are valid, the Board found that enclosure (7) contains an error. Specifically, the statement, "YOUR STATUS OF MILITARY SERVICE IN WHICH YOU WILL NOT BE ADMINISTRATIVELY SEPARATED FROM THE UNITED STATES MARINE CORPS" violates reference (c). According to reference (c), "Do not make entries on page 11 which concern administrative discharge or competency review proceedings if they do not upon final review, result in discharge or reduction." In this case, Petitioner was properly processed for administrative separation based

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]  
XXX XX [REDACTED] USMC

on drug use and he was retained. After the administrative separation process was complete, Petitioner's CO issued enclosure (7) and made a statement concerning Petitioner's administrative separation. The Board determined that the erroneous statement should be removed. However, the Board found the balance of the entry valid and determined that it should be retained.

#### RECOMMENDATION

In view of the above, the Board directs the following corrective action.

Petitioner's naval record be corrected by redacting the following statement from enclosure (7):

“on YOUR STATUS OF MILITARY SERVICE IN WHICH YOU WILL NOT  
BE ADMINISTRATIVELY SEPARATED FROM THE UNITED STATES  
MARINE CORPS.”

No other changes to Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.
5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

12/31/2025

