



2. While you were between commands, you were attached to the Transient Personnel Unit (TPU) and were selected for random urinalysis testing on 30 January 2008. You reported to ■ on 4 February 2008.

3. On 5 February 2008, TPU was notified that your urine sample tested positive for cocaine. After receiving the urinalysis results from ■ commenced a Preliminary Inquiry (PI). On 3 April 2008, you made a statement contending that you had never taken any illicit drugs and were taking prescription pain medication, although you had not indicated this on the urinalysis form.

4. On 6 May 2008, you received non-judicial punishment (NJP) for wrongful use of a controlled substance. At your NJP hearing, you admitted to pre-service marijuana use and failing to disclose it during your enlistment processing.

5. On 20 May 2008, you received NJP for unauthorized absence (UA).

6. Consequently, you were notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of misconduct due to drug abuse, misconduct due to commission of a serious offense, and fraudulent entry for failure to disclose your pre-service marijuana. You elected to consult with legal counsel and waived your right to have your case heard by an administrative discharge board. The separation authority subsequently directed your discharge with an OTH characterization of service and you were so discharged on 12 September 2008.

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 admission of fraudulent entry. While the Board carefully considered your contentions that you did not abuse cocaine, your positive urinalysis was likely due to your Percocet prescription, and your metabolite concentration for your positive urinalysis was very low, the Board found your arguments unpersuasive. The Board reviewed your advocacy letters attesting to your good character but noted that you provided no evidence, other than your statement, to substantiate your contention regarding a Percocet prescription. Further, the Board took into consideration that you did not list your Percocet prescription during your urinalysis processing as required by instruction. Finally, the Board noted that your metabolite level met the Department of Defense cut-off level for a positive urinalysis for cocaine use. Therefore, the Board determined the presumption of regularity applies to the finding that you committed the misconduct that formed the basis of your administrative separation and no error exists with your OTH characterization of service.

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, your contentions, the totality of your service, your need for veterans' benefits, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, your claims of unfair treatment, the negative effect

your discharge has had on your life, the character references you provided for review, 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 determined that illegal drug use by a service member is contrary to military core values and policy, renders such members unfit for duty, and poses an unnecessary risk to the safety of their fellow service members. The Board also considered the likely negative impact your repeated misconduct had on the good order and discipline of your command, noting that you were processed not only for drug abuse, but also fraudulent enlistment. Finally, 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. Therefore, 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.

Accordingly, given the totality of the circumstances, the Board determined that 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,

2/23/2026

