



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

701 S. COURTHOUSE RD

ARLINGTON, VA 22204

Docket No. 8893-25

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 March 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.

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 U.S. Navy and began a period of active duty service on 15 August 2006. Your pre-enlistment physical examination, 9 August 2006, and self-reported medical history both noted no psychiatric or neurologic issues or symptoms.
2. On 24 January 2007, you received non-judicial punishment (NJP) for: (a) unauthorized absence, and (b) a failure to obey a lawful order. You did not appeal your NJP. On the same day, your command issued you a "Page 13" retention warning (Page 13). The Page 13 expressly advised you that any further deficiencies in your performance and/or conduct may result in disciplinary action and in processing for administrative separation.

3. On 25 January 2008, a Navy Drug Screening Laboratory message indicated that you tested positive for d-methamphetamine at a metabolite level well above the Department of Defense testing cutoff level. You were subsequently offered NJP but refused to accept it.

4. On 15 August 2008, your command your command notified you of administrative separation proceedings by reason of misconduct due to drug abuse, misconduct due to the commission of a serious offense, and misconduct due to a pattern of misconduct. You consulted with counsel and elected your right to request a hearing before an administrative separation board (Adsep Board).

5. On 21 August 2008, an Adsep Board convened in your case. At the Adsep Board, you were represented by military counsel. Following the presentation of evidence and any witness testimony, the Adsep Board members unanimously voted that misconduct occurred and that you should be separated with a General (Under Honorable Conditions) (GEN) discharge characterization.

6. Your commanding officer (CO) recommended to the separation authority (SA) that you be separated with a GEN discharge. Your CO's recommendation stated, in pertinent part:

Processing in the case of [SNM] was initiated subsequent to his positive urinalysis result of 22 January 2008. [SNM] refused nonjudicial punishment and was processed for an administrative separation through his election of an administrative separation board. The Board convened, found misconduct, and recommended separation with a General (Under Honorable Conditions) characterization of service. The Counsel for the Respondent elected to submit a letter of deficiency; however it was never submitted. I concurred with the Board's findings and recommendations.

7. On 23 September 2008, the SA approved and directed your GEN discharge characterization for drug abuse. Ultimately, on 24 September 2008, you were separated from the Navy with a GEN discharge characterization and assigned an RE-4 reentry code.

In your application to this Board, you express a desire for your discharge character of service be upgraded and contend that:

1. You were not taking any drugs.
2. You paid for a hair test and it came back negative.
3. You proved with a hair test that you did not have any drugs in your system.

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. While the Board carefully considered your contention of error based on a hair test, the Board noted you did not provide any evidence, other than your

statement, to substantiate your contentions. Further, the Board considered that an Adsep Board heard your evidence and found it to be unpersuasive. 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, your desire for an upgrade to your characterization of service, your contentions of innocence, the totality of your service, the non-violent nature of your misconduct, your relative youth and immaturity at the time of your misconduct, the negative effect your discharge has had on your life, the advocacy letter 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. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that your misconduct while on active duty outweighed the mitigation evidence offered. While the Board noted you provided an advocacy letter in support of your case, it revealed that you were convicted by a civil court for stalking and were incarcerated. So while the letter provided evidence of your rehabilitation efforts, the Board determined this mitigation evidence was offset by evidence that you engaged in additional serious misconduct upon your discharge from the Navy.

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,

3/26/2026

