



28 October 1959, SM was convicted at Special Court Martial (SPCM) of breaking restriction, UA from 12 September to 9 October 1959, and wrongfully possessing the identification and liberty pass of another person. He was sentenced to reduction in rank to E-1, forfeitures, and confinement at hard labor. On 7 January 1960, SM received NJP for failure to go to his appointed place of duty.

Consequently, SM was notified of pending administrative separation processing with an Under Other Than Honorable conditions (OTH) discharge by reason of unfitness due to being repeatedly in a disciplinary status because of infractions of regulations and/or commissions of offenses. SM elected to consult with legal counsel and requested an administrative discharge board (ADB). The ADB recommended probational retention but the separation authority did not concur with the ADB and forwarded SM's case to the Commandant of the Marine Corps (CMC) for final disposition. The CMC ultimately directed an OTH discharge by reason of unfitness and, on 17 March 1960, SM was so discharged.

The Board carefully considered all potentially mitigating factors to determine whether the interests of justice warrant relief in your case in accordance with the Kurta and Wilkie Memos. These included, but were not limited to, your desire to change the SM's discharge characterization of service and your contentions that the SM suffered from mental health concerns, that you are a retired Senior Army Leader due to the SM's influence, and your desire to bury your mother (the SM's wife) in the National Cemetery in █. Additionally, the Board noted you checked the "PTSD" and "Other Mental Health" boxes on your application but did not provide additional information or evidence in support of your claim. For purposes of clemency and equity consideration, the Board considered the totality of your application; which consisted of your DD Form 149, your statement, and the documentation you provided establishing the deaths of your parents and of your Honorable service.

After thorough review, the Board concluded your potentially mitigating factors were insufficient to warrant relief. Specifically, the Board determined that SM's misconduct, as evidenced by his NJPs and SPCM, outweighed these mitigating factors. In making this finding, the Board found that SM's conduct showed a complete disregard for military authority and regulations. The Board observed he was given multiple opportunities to correct his conduct deficiencies but chose to continue to commit misconduct; which led to his OTH discharge. SM's conduct not only showed a pattern of misconduct but was sufficiently pervasive and serious to negatively affect the good order and discipline of his command.

Further, the Board applied liberal consideration to your claim that SM suffered from a mental health condition, and to the effect that this condition may have had upon the conduct for which he was discharged in accordance with the Kurta Memo. Applying such liberal consideration, the Board found insufficient evidence of a diagnosis of mental health condition that may be attributed to military service. This conclusion is supported by the fact you provided no evidence in support of your claim. Additionally, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which SM was discharged was excused or mitigated by his mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion. Therefore, the Board determined that the evidence of record did not demonstrate that SM was not mentally responsible for his

conduct or that he should not be held accountable for his actions. Moreover, even if the Board assumed that SM's misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of his serious misconduct more than outweighed the potential mitigation offered by any mental health conditions.

Finally, the Board thanks you for your Honorable service, however, absent a material error or injustice, the Board declined to summarily upgrade SM's discharge solely for the purpose of facilitating veterans' benefits.

As a result, the Board determined that there was no impropriety or inequity in SM's discharge and concluded that his misconduct and disregard for good order and discipline clearly merited his discharge. While the Board carefully considered the evidence you submitted in mitigation, even in light of the Kurta and Wilkie Memos and reviewing the record liberally and holistically, the Board did not find evidence of an error or injustice that warrants granting you the relief you requested or granting relief as a matter of clemency or equity. Ultimately, the Board concluded the mitigation evidence you provided was insufficient to outweigh the seriousness of the SM's misconduct. 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,

1/6/2026

