

1. SM enlisted in the Navy and began a period of active duty on 1 March 1984. He reported to the [REDACTED] duty on 25 June 1984.

2. On 5 October 1984, SM received his first non-judicial punishment (NJP) for the wrongful use of a controlled substance (marijuana).

3. On 13 February 1985, he was issued an administrative remarks (Page 13) counseling concerning deficiencies in his performance and/or conduct. He was advised that any further deficiencies in his performance and/or conduct may result in disciplinary action and in processing for administrative discharge.

4. SM again tested positive for marijuana, on 1 July 1985, for which he received his second NJP, was assigned to the command urinalysis surveillance program, and issued an additional page 13 Retention Warning.

5. On 20 August 1985, SM tested positive for marijuana use.

6. Consequently, SM was notified of pending administrative separation proceedings by reason of misconduct due to drug abuse. He was informed that the least favorable characterization of service he may receive is under Other Than Honorable (OTH) conditions, consulted with counsel, and waived his right to request a hearing before an administrative discharge board. The commanding officer (CO) forwarded SM's administrative separation package to the separation authority (SA) recommending his administrative discharge from the Navy with an OTH characterization of service. The SA approved the CO's recommendation and SM was so discharged on 15 October 1985.

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

1. SM suffered from Vertigo while stationed on the ■■■■■■■■■■, which was extremely painful and he struggled with that pain for many months.

2. His anxiety level increased tremendously after his rent and security deposit totaling \$1,500 was stolen by someone who broke into his locker the night before he gave the money to his new landlord, losing the apartment.

3. He was very distressed and unable to cope.

4. He sought help from Navy relief for an advanced to pay rent for the initial month, planning to repay biweekly from his pay check, and the lady who interviewed them listened to their situation and her response was "send your wife back home and you can just live on the ship." This left him feeling hopeless.

5. SM was depressed, struggled to cope, numbed his pain, and was not mentally strong enough to take care of his wife at the time.

6. However, he returned home, enrolled in college, and was offered a position with a manufacturing company that he had been employed with since July 1986. He never called in sick and his outstanding, hardworking qualities were most worthy.

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

The Board initially concluded SM was appropriately processed for administrative separation based on his record of misconduct. While the Board carefully considered your contention of mitigation, the Board noted you admitted SM committed the misconduct that formed the basis of his administrative separation and OTH discharge. Therefore, the Board determined the presumption of regularity applies to SM's administrative separation and no error exists with his record.

However, because you raised the issue of mental health, the Board also requested an AO. As part of the Board's review process, a qualified mental health professional reviewed your contentions and the available records and issued an AO on 31 December 2025. The AO noted in pertinent part:

There is no evidence that SM was diagnosed with or suffered from any mental health condition during his military service. His personal statement is not sufficiently detailed to provide a nexus between a mental health condition and his in-service conduct. Additional records may aide in rendering an alternate opinion.

The AO concluded, "Based on the available evidence, it is my clinical opinion there is insufficient evidence of a mental health condition that existed in service. There is insufficient evidence to attribute his misconduct to any mental health condition."

In response to the AO, you provided an additional statement and pages from SM's medical record, which supplied additional clarification of the circumstances of your case. After reviewing your rebuttal evidence, the AO remained unchanged.

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 Hagel 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 AO and the fact the medical evidence temporally remote to SM's service. Additionally, even applying liberal consideration, the Board found insufficient evidence to conclude that the misconduct for which he was discharged was excused or mitigated by SM's mental health condition. In this regard, the Board simply had insufficient information available upon which to make such a conclusion and recognized the same concerns raised in the AO. Moreover, even if the Board assumed that his misconduct was somehow attributable to any mental health conditions, the Board unequivocally concluded that the severity of his misconduct more than outweighed the potential mitigation offered by any mental health conditions.

In addition to applying liberal consideration to SM's claimed mental health condition and its potential effect upon his conduct in accordance with the Kurta Memo, the Board also considered the totality of the circumstances to determine whether equitable relief is 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 SM's service, the non-violent nature of his

misconduct, his relative youth and immaturity at the time of his misconduct, the negative effect his discharge has had on his life, his post-service record of accomplishments, the evidence you provided in support of your application, his recent passing, and the passage of time since his 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. In making this finding, the Board also considered the seriousness of his misconduct and concluded that his misconduct 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. His conduct not only showed a pattern of misconduct, but also was sufficiently pervasive and serious to negatively affect the good order and discipline of his command. Therefore, even taking into consideration all the mitigation factors in your case, the Board found that SM's misconduct while on active duty outweighed the mitigation evidence offered.

Accordingly, given the totality of the circumstances, the Board determined your request does not merit relief.

Notwithstanding the Board's decision in this case, it extended its deepest condolences for your loss.

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

