



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

HD:hd  
Docket No. 07324-10  
15 July 2011

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

Subj: [REDACTED]  
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 8 Apr 10 w/attachments  
(2) PERS-811 memo dtd 3 May 11  
(3) PERS-811 e-mail dtd 12 Jul 11  
(4) USS ROOSEVELT (CVN 71) Ship's Secy  
e-mail dtd 12 Jul 11

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show he was advanced to petty officer second class (pay grade E-5) as of 11 December 2009.

2. The Board, consisting of Ms. Nappo and Messrs. Chapman and Grover, reviewed Petitioner's allegations of error and injustice on 14 July 2011, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner received nonjudicial punishment (NJP) on 11 June 2009. Part of his punishment was a reduction in rate,

suspended for six months. On 29 June 2009, his commanding officer (CO) sent a message to the Naval Education and Training, Professional Development and Technology Center (NETPDTC), Pensacola, Florida withholding Petitioner's recommendation for advancement to pay grade E-5 on the basis of the NJP.

d. Petitioner submitted a letter from the same CO, dated 30 June 2010, at enclosure (1), in which the CO requests that Petitioner be advanced to pay grade E-5 as of 16 December 2009, because "Documentation was mistakenly forwarded to NETPDTC Pensacola requesting to withhold service member's advancement." Petitioner also submitted a letter from the division officer, dated 8 April 2010, also at enclosure (1), verifying that the paperwork for withholding Petitioner's advancement should not have been submitted.

e. In enclosure (2), the Navy Personnel Command office with cognizance over the subject matter of Petitioner's case has commented to the effect his request should be denied, as the command withheld his advancement recommendation on 29 June 2009, it was not reinstated until after the limiting date of 31 December 2009, and "failure to reinstate a previously withheld advancement prior to the limiting date for the advancement cycle will terminate the member's selection."

f. Enclosure (3) reflects that had Petitioner's advancement recommendation not been withheld, he would have been advanced with a time in rate date of 1 July 2009 and an effective date of 16 December 2009.

g. Enclosure (4) affirms that the same CO who submitted the letter at enclosure (1) was the CO at the time of the CO message withholding Petitioner's advancement recommendation.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, notwithstanding enclosure (2), and especially in light of the letters from the CO and the division officer and enclosures (3) and (4), the Board finds an error and injustice warranting partial relief, specifically, Petitioner's advancement to petty officer second class with a time in rate date of 1 July 2009 and effective date of 16 December 2009, rather than 11 December 2009, the date he requested. In this regard the Board accepts the assertions of the CO and the division officer that the message withholding Petitioner's advancement recommendation was

sent in error. In view of the above, the Board recommends the following limited corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show he was advanced to petty officer second class (ABE2) with a time in rate date of 1 July 2009 and effective date of 16 December 2009.

b. That any material relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

d. That Petitioner's request for an 11 December 2009 effective date of advancement be denied.

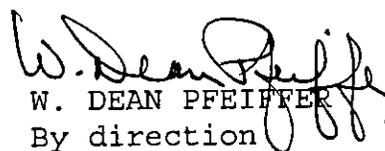
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder



JONATHAN S. RUSKIN  
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.



W. DEAN PFEIFFER  
By direction

Reviewed and approved:



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7/20/11