



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
701 S. COURTHOUSE RD SUITE 1001
ARLINGTON VA 22204-2490

BAN
Docket No. NR02462-14
12 August 2014

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

Subj: [REDACTED]

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

Encl: (1) DD Form 149 w/attachments
(2) Deputy Assistant Judge Advocate General memo 5800
4BC1288.14 of 5 Aug 2014

1. Pursuant to the provisions of reference (a) Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show that his nonjudicial punishment (NJP) was set aside in 2009 and he retained his rank of MM1/E-6 until his end of his obligated service date. Additionally, Petitioner is requesting all back pay and allowances.

2. The Board, consisting of Messrs. Zsalman, Ruskin and George reviewed Petitioner's allegations of error and injustice on 11 August 2014 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, naval records, 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. In correspondence attached as enclosure (2), the office having cognizance over the subject matter addressed in Petitioner's application has commented to the effect that the request has merit and warrants favorable action.

CONCLUSION

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosure (2), the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

That Petitioner's naval record be corrected, where appropriate, as follows:

a. Petitioner was advanced to MM1/E-6 with an effective date of 16 June 2009 with a Time In Rate date of 1 January 2009.

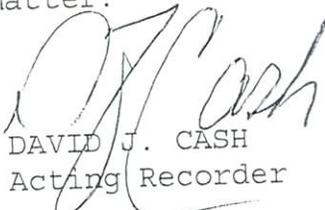
Note: Petitioner's NJP of 19 December 2008, in which he was reduced in rank from a frocked E-6 to E-4, was set aside on 17 February 2009.

b. Petitioner is entitled to all back pay and allowances to MM1/E-6 from the date of his erroneous reduction in rank to the date of his end of obligated service.

c. A copy of this Report of Proceedings will be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that 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


DAVID J. CASH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby

announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.

12 August 2014

A handwritten signature in black ink, appearing to read "Robert D. Zsalmán", with a stylized flourish at the end.

ROBERT D. ZSALMAN
Acting Executive Director