



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
701 S. COURTHOUSE ROAD  
ARLINGTON, VA 22204

HD:hd  
Docket No. 04854-11  
17 February 2012

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

[REDACTED]

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

Encl: (1) DD Form 149 dtd 29 Mar 11 w/attachments  
(2) PERS-811 memo dtd 16 May 11 w/attachments  
(3) PERS-832B memo dtd 24 May 11 w/attachment  
(4) PERS-32 memo dtd 7 Jun 11 w/enclosures

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 by removing the enlisted performance evaluation report for 16 March 2009 to 3 February 2010, the service record page 13 ("Administrative Remarks") (NAVPERS 1070/613) entry dated 3 February 2010, and the Court Memorandum (NAVPERS 1070/607) dated 4 February 2010, copies of which are in enclosure (1). He also requested that he be awarded passed not advanced (PNA) points for examination cycle 204 (September 2009) and PNA points for all cycles thereafter.

2. The Board, consisting of Messrs. W. Hicks, Spooner and Swarens, reviewed Petitioner's allegations of error and injustice on 16 February 2012, 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. In enclosure (2), PERS-811, the Navy Personnel Command (NPC) office having cognizance over enlisted advancements, has commented to the effect that Petitioner should be awarded PNA points for cycle 204, but no other PNA points.

c. In enclosure (3), PERS-832B, the NPC enlisted performance office, has commented to the effect that Petitioner has not established his nonjudicial punishment (NJP) of 3 February 2010 was set aside completely, nor has he shown the contested performance evaluation was submitted only to document his reduction in rate which has been suspended. That office recommended that block 43 ("Comments on Performance") of the contested evaluation be amended by deleting "fined half month's pay for 1 month and reduction in rank to E4." and substituting "reduction in rank to E-4 (suspended for six months.)"

d. In enclosure (4), PERS-32, the NPC office with cognizance over performance evaluations, has commented to the effect that since the punishment of restriction awarded at NJP was not overturned, and a suspension of the overturned reduction in rate was kept in place, the performance evaluation report at issue should not be completely removed. That office advised that block 43 of the report has been amended as recommended by PERS-832B.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (2) through (4), the Board finds the existence of an injustice warranting the following limited corrective action:

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected by awarding him PNA points for cycle 204.

b. That any material or entries inconsistent with or 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 the remainder of Petitioner's request 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*  
JONATHAN S. RUSKIN  
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.

*W. Dean Pfeiffer*  
W. DEAN PFEIFFER  
Executive Director