Press Release: *Scapegoated USN Commander Cash*

Law Offices of David P. Sheldon PLLC

100 M St SE, Suite 600

Washington, DC 20003

(202) 546 9575

[www.militarydefense.com](http://www.militarydefense.com)

*The Law Offices of David P. Sheldon file Suit on Behalf of Commander Cash in the District Court for the District of Columbia to have the wrongful and unsupported BCNR decision overturned, and Commander Cash’s charges cleared.*

The Navy’s struggle with new ship classes has not been limited to the Littoral Combat Ship. The *San Antonio* class of amphibious transport docks have been similarly troubled since they first entered the planning stage in 1996. This included severe safety concerns, first discovered in a Navy study in 1998, whose recommendations were never implemented and whose revelations were never told to the future captains of the ships.

The problems with the *San Antonio* class tragically finally came to a fore with the tragic death of Ensign Theophilus Ansong in 2009, while a small boat was being lowered to transport personnel to another ship. This death was investigated, and responsibility was firmly placed on the safety vulnerabilities of the *San Antonio* class. The U.S. Navy sent out an emergency alert to change boat launching procedures, and engaged in a massive study of the class, leading to $1 billion in suggested modifications and operational reforms.

Commander Eric Cash and his executive officer Lieutenant Sean Kearns were counseled for the event, but the Navy recognized that it was not their fault. For more than a year, this is where matters ended. However, in May of 2010, Congress made it clear that it intended to conduct hearings on naval readiness, with a particular focus on the *San Antonio* class. Admiral John C. Harvey was notified that he would be called. In preparation for the hearing, Admiral Harvey decided to resurrect the incident and bring Article 92 charges for dereliction of duty against Commander Cash, Lieutenant Commander Kearns, and the boatswain who had overseen the operation. The grounds were failing to issue a special watch bill, despite it not being required by U.S. Navy practices at the time, and failure to ensure proper supervision, despite all the involved personnel being highly trained and qualified.

Lieutenant Commander Kearns had since left the *San Antonio* and thus had the right to demand court-martial instead of non-judicial punishment. Within the scope of this evidentiarily rigorous process, both the Government’s and Lieutenant Commander Kearns’ expert witnesses established that a special watch bill wasn’t needed at the time, and the supervision had been adequate. It confirmed what everyone, but Admiral Harvey had been well aware of, Ensign Ansong’s tragic death was due to the faults of the *San Antonio* class and how the Navy chose to operate them. Following his acquittal on the charges, Lieutenant Commander Kearns would go on to have a flourishing career, making Captain, commanding the USS *Constitution*, the oldest ship in the fleet, and he is now the head of an NROTC program.

Commander Cash was not so fortunate. He was still at sea, commanding the *San Antonio*, when charges were pressed against him, and thus did not have the right to the significantly greater evidentiary rigor of court-martial. Though Admiral Harvey still had the right to grant him that, the Admiral wanted to ensure that Commander Cash went through an evidentiarily weaker process. He forced Commander Cash to undergo non-judicial punishment *in absentia*. The charges were upheld, thanks to the lack of expert testimony and the much sparser evidentiary record. A punitive letter of reprimand was placed in his record and his career was functionally over. Despite being granted the highest possible evaluations over the next five years he was passed over for promotion to Captain thanks to Admiral Harvey’s actions.

In 2018, with the help of the firm, Commander Cash sought to have the Board for Correction of Naval Records undo this injustice. Stunningly, despite the legal advisor specifically noting the strength of his application, the charges were still upheld, on the spurious grounds of what *could* have been before the NJP. The fact that the same charges on the same nexus of facts resulted in acquittal when a proper evidentiary record was built was ignored, and the civilians of the Board declared that a special watch bill had been “clearly needed.”

Now, these twin injustices are finally set to be corrected. The Law Offices of David P. Sheldon have filed suit in the District Court for the District of Columbia to have the wrongful and unsupported BCNR decision overturned, and Commander Cash’s charges cleared. By the end of this year Commander Cash will have been returned to where he should be. The punitive letter of reprimand and the charges will have been cleared from his record and he will be before a special selection board for a proper consideration for promotion to Captain. The path for Commander Cash to clear his good name and return to the Navy he so deeply loves begins now.