

**IN THE U.S. NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS  
WASHINGTON NAVY YARD  
WASHINGTON, D.C.**

**BEFORE**

**J.W. ROLPH**

**E.E. GEISER**

**F.D. MITCHELL**

**UNITED STATES**

**v.**

**ERIC D ADAMS  
Chief Warrant Officer Four (CWO-4), U. S. Navy**

NMCCA 200600992

Decided 28 November 2006

Sentence adjudged 12 January 2006. Military Judge: S.A. Dominguez. Review pursuant to Article 66(c), UCMJ, of General Court-Martial convened by Commander, Navy Region Southeast, Jacksonville, FL.

LT AIMEE M. SOUDERS, JAGC, USN, Appellate Defense Counsel  
CDR LISA MACPHEE, JAGC, USNR, Appellate Defense Counsel  
Capt JAMES W. WEIRICK, USMC, Appellate Government Counsel  
Capt GEOFFREY SHOWS, USMC, Appellate Government Counsel

AS AN UNPUBLISHED DECISION, THIS OPINION DOES NOT SERVE AS PRECEDENT.

MITCHELL Judge:

A military judge sitting as a general court-martial convicted the appellant, consistent with his pleas, of multiple specifications of sodomy and indecent acts with a child in violation of Articles 125 and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 925 and 934. The appellant was sentenced to a dismissal and confinement for 25 years. The convening authority approved the sentence as adjudged but suspended execution of confinement in excess of 17 years and six months for the period of confinement served.

The appellant asserts two assignments of error. He first avers that a sentence containing an unsuspended dismissal is inappropriately severe given his 27 years of honorable service. The appellant additionally contends that the staff judge advocate's recommendation (SJAR) failed to provide an accurate statement of the charges and specifications, pleadings and

findings in violation of RULE OF COURTS-MARTIAL 1106(d)(3)(A), MANUAL FOR COURTS-MARTIAL, UNITED STATES (2005 ed.).

We have examined the record of trial, the two assignments of error, and the Government's response. We conclude that the findings and sentence are correct in law and fact and that no error was committed that was materially prejudicial to the substantial rights of the appellant. Arts. 59(a) and 66(c), UCMJ.

### **Appropriateness of Sentence**

In his first assignment of error, the appellant asserts that his sentence is inappropriately severe and requests that we, therefore, "return this case to the Convening Authority with directions to suspend the dismissal." We decline to grant relief.

"Sentence appropriateness involves the judicial function of assuring that justice is done and that the accused gets the punishment he deserves." *Unites States v. Healy*, 26 M.J. 394, 395 (C.M.A. 1988). This requires "'individualized consideration' of the particular accused 'on the basis of the nature and seriousness of the offense and character of the offender.'" *United States v. Snelling*, 14 M.J. 267, 268, 14 M.J. 267, 268 (C.M.A. 1982)(quoting *United States v. Mamaluy*, 27 C.M.R. 176, 180-81 (C.M.A. 1959)).

The appellant was convicted of two specifications of sodomy with his minor daughter. In both specifications he admitted to placing his tongue in his daughter's vagina and placing his penis in her mouth on multiple occasions. He was also convicted of three specifications of indecent acts with this same minor daughter which included, *inter alia*, multiple acts of exposing her to pornography and masturbating in front of her; having her masturbate in front of him; having her take her clothes off in front of him; and laying on top of her naked with his erect penis exposed thrusting against her vaginal area. After reviewing the entire record, we find that the sentence is appropriate for this offender and his offenses. *United States v. Baier*, 60 M.J. 382, 384-85 (C.A.A.F. 2005); *Healy*, 26 M.J. at 395-96; *Snelling*, 14 M.J. at 268.

Appellant's second assignment of error is without merit. Note (2) on Page 5 of the SJAR accurately reflects that the trial counsel removed the words "and child" from Specification 4 of Charge II.

**Conclusion**

The approved findings and sentence are affirmed.

Chief Judge ROLPH and Senior Judge GEISER concur.

For the Court

R.H. TROIDL  
Clerk of Court