

**UNITED STATES NAVY-MARINE CORPS
COURT OF CRIMINAL APPEALS
WASHINGTON, D.C.**

**Before
R.E. VINCENT, E.C. PRICE, J.R. PERLAK
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**ERIC M. GORDON
AIRCREW SURVIVAL EQUIPMENTMAN AIRMAN (E-3), U.S. NAVY**

**NMCCA 200900531
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 14 August 2009.

Military Judge: Maj Stephen Keane, USMC.

Convening Authority: Commanding Officer, Electronic Attack Squadron 133, Naval Air Station Whidbey Island, WA.

Staff Judge Advocate's Recommendation: LT L.E. Reardanz, JAGC, USN.

For Appellant: CDR Thomas Belsky, JAGC, USN.

For Appellee: Mr. Brian Keller, Esq.

31 December 2009

OPINION OF THE COURT

AS AN UNPUBLISHED DECISION, THIS OPINION DOES NOT SERVE AS PRECEDENT.

PER CURIAM:

We have examined the record of trial, which was submitted without assignment of error, and conclude that the findings and sentence are correct in law and fact and that no error materially prejudicial to the substantial rights of the appellant was committed. See Articles 59(a) and 66(c), Uniform Code of Military Justice, 10 U.S.C. §§ 859(a) and 866(c).

We note that the convening authority's action purports to execute the bad-conduct discharge. However, this portion of the action is a nullity and, therefore, remedial action is not required. RULE FOR COURTS-MARTIAL 1113(c), MANUAL FOR COURTS-MARTIAL,

United States (2008 ed.); see *United States v. Bailey*, ___ M.J. ___; No. 10-0121/NA (C.A.A.F. Dec. 16, 2009) (summary disposition); *United States v. Caver*, 41 M.J. 556, 565 (N.M.Ct.Crim.App. 1994).

Accordingly, the findings of guilty and the sentence, as approved by the convening authority, are affirmed.

For the Court

R.H. TROIDL
Clerk of Court