

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

**Before
L.T. BOOKER, E.C. PRICE, D.R. LUTZ
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**RICKY A. BOYD, JR.
LANCE CORPORAL (E-3), U.S. MARINE CORPS**

**NMCCA 201000015
GENERAL COURT-MARTIAL**

Sentence Adjudged: 02 September 2009.

Military Judge: LtCol G.W. Riggs, USMC.

Convening Authority: Commanding General, 2d Marine Aircraft Wing, Cherry Point, NC.

Staff Judge Advocate's Recommendation: Maj S.D. Schrock, USMC.

For Appellant: LCDR Anthony Yim, JAGC, USN.

For Appellee: Mr. Brian Keller, Esq.

23 March 2010

OPINION OF THE COURT

**IN ACCORDANCE WITH RULE 18.2, NMCCA RULES OF PRACTICE AND PROCEDURE, THIS
OPINION DOES NOT SERVE AS PRECEDENT.**

PER CURIAM:

A military judge sitting as a general court-martial convicted the appellant, pursuant to his pleas, of multiple conspiracies (one to housebreak, two to steal); willful dereliction of duty; false official statement; multiple larcenies; and housebreaking, violations, respectively, of Articles 81, 92, 107, 121, and 130, Uniform Code of Military Justice, 10 U.S.C. §§ 881, 892, 907, 921, and 930. The convening authority (CA) approved the adjudged sentence of

confinement for 4 years, reduction to pay grade E-1, and a bad-conduct discharge from the U.S. Marine Corps.

After careful consideration of the record, submitted without assignment of specific error, we conclude that the court-martial promulgating order inaccurately reflects the appellant's pleas and order corrective action in our decretal paragraph. Following that action, we 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. Arts. 59(a) and 66(c), UCMJ.

Our review of the record revealed a discrepancy as to whether the appellant pleaded guilty to Specification 4 of Charge IV, one of the alleged larcenies. The record of trial suggests that the appellant pleaded guilty; however, the military judge neither identified nor otherwise inquired into this offense as an offense to which the appellant entered pleas of guilty. Record at 8, 43-45, 48. In fact, the military judge granted a Government motion to withdraw all offenses to which the appellant had pleaded not guilty, and it is clear from the findings entered by the military judge that Specification 4 of Charge IV was one of those offenses. *Id.* at 85-86. In addition, the pretrial agreement, Appellate Exhibit I, anticipates a not guilty plea, and the "Results of Trial" memorandum reflects a "Not Guilty" plea to this offense. We therefore presume the stated plea of guilty to that offense at page 8 of the record was a transcription error.

The CA perpetuated this error by listing a Guilty plea to Specification 4 of Charge IV, but then noting that the specification had been withdrawn and dismissed. General Court-Martial Order 1-07 of 10 Dec 2009. A service member is entitled to records that correctly reflect the proceedings of a court-martial, and we will order the necessary corrective action. See *United States v. Crumpley*, 49 M.J. 538, 539 (N.M.Ct.Crim.App. 1998).

The findings and sentence are affirmed. The supplemental court-martial order will correctly reflect a "not guilty" plea, and a "withdrawn and dismissed" disposition, to Specification 4 of Charge IV.

For the Court

R.H. TROIDL
Clerk of Court