

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

**Before
E.E. GEISER, F.D. MITCHELL, J.A. MAKSYM
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**KESIRAY D. CHAISON
LANCE CORPORAL (E-3), U.S. MARINE CORPS**

**NMCCA 200900166
GENERAL COURT-MARTIAL**

Sentence Adjudged: 22 October 2008.

Military Judge: CAPT J. Harty, JAGC, USN.

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

Staff Judge Advocate's Recommendation: LtCol M.P. Gilbert,
USMC.

For Appellant: Maj Anthony Burgos, USMC.

For Appellee: Capt Michael Aniton, USMC.

28 January 2010

OPINION OF THE COURT

AS AN UNPUBLISHED DECISION, THIS OPINION DOES NOT SERVE AS PRECEDENT.

PER CURIAM:

A panel of members with enlisted representation sitting as a general court-martial convicted the appellant, contrary to her pleas of conspiracy to wrongfully distribute marijuana, violation of a lawful general order by possessing drug paraphernalia, possession of marijuana with intent to distribute, and impeding an investigation, in violation of Articles 81, 92, 112a, and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 881, 892, 912a, and 934. The appellant was sentenced to confinement for three years, total forfeiture of pay and allowances, reduction to pay grade E-1, and a dishonorable discharge. The convening authority approved the sentence as adjudged.

The appellant raises three assignments of error¹ alleging that the evidence adduced at trial was factually insufficient to prove her guilt beyond a reasonable doubt on the charges of conspiracy, violating a lawful order by possessing drug paraphernalia, and possession of marijuana with the intent to distribute.

The test for factual sufficiency is whether, after weighing all the evidence adduced at trial and recognizing that we did not see or hear the witnesses, this court is convinced of the appellant's guilt beyond a reasonable doubt. *United States v. Turner*, 25 M.J. 324, 325 (C.M.A. 1987). We are also mindful that reasonable doubt does not equate to the evidence being free of conflict. *United States v. Reed*, 51 M.J. 559, 561-62 (N.M.Crim.Ct.App. 1999), *aff'd*, 54 M.J. 37 (C.A.A.F. 2000). The fact finder may believe one part of a witness' testimony and disbelieve another. *United States v. Harris* 8 M.J. 52, 59 (C.M.A. 1979); *see also* Art. 66(c), UCMJ.

We have carefully examined the record of trial, the assignments of error and the Government's response. We find that the evidence adduced at trial, contained in the record, to include witness testimony and physical evidence seized from the appellant's room, establishes her guilt beyond any reasonable doubt. Arts. 59(a) and 66(c), UCMJ.

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

For the Court

R.H. TROIDL
Clerk of Court

¹ Submitted pursuant to *United States v. Grostefon*, 12 M.J. 431, 435, (C.M.A. 1982).