

**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.

**JUAN G. CAMPOS
LANCE CORPORAL (E-3), U.S. MARINE CORPS**

**NMCCA 201000126
GENERAL COURT-MARTIAL**

Sentence Adjudged: 14 October 2009.

Military Judge: LtCol Eugene Robinson, USMC.

Convening Authority: Commander, Marine Corps Base,
Quantico, VA.

Staff Judge Advocate's Recommendation: Col S.C. Newman,
USMC.

For Appellant: CAPT Diane Karr, JAGC, USN.

For Appellee: CAPT James Melton, JAGC, USN; LCDR Sergio
Sarkany, JAGC, USN.

17 June 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, consistent with his pleas, of assault consummated by a battery upon a child under 16 years of age, committing indecent acts upon a child under the age of 16 years of age (2 specifications), and adultery, respectively violations of Articles 128 and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 928 and 934. The sentence awarded by the military judge was 6 years confinement, forfeiture of \$900.00 pay per month for 72 months, reduction to pay grade E-1, and a dishonorable discharge. The convening authority (CA) approved

the sentence as adjudged but, in accordance with a pretrial agreement, suspended confinement in excess of 12 months for the period of confinement served plus 12 months thereafter, and suspended adjudged forfeitures for a period of 24 months.¹

The appellant's sole assignment of error asserts that his sentence, in particular his dishonorable discharge, was inappropriately severe. We have carefully examined the record of trial and the parties' pleadings and 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.

"Sentence appropriateness involves the judicial function of assuring that justice is done and that the accused gets the punishment that he deserves." *United 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 (C.M.A. 1982) (quoting *United States v. Mamaluy*, 27 C.M.R. 176, 180-81 (C.M.A. 1959)).

We have carefully reviewed all evidence before the military judge on sentencing and the appellant's clemency request.² We note in particular the testimony of his young victim, the victim's mother and the appellant's ex-wife (who is also the victim's older sister), who all testified to how damaging the appellant's actions have been, not only to the victim, but to her entire family as well. Record at 125-49. We specifically find that the sentence in this case is appropriate for this offender and his offenses. *United States v. Baier*, 60 M.J. 382, 384 (C.A.A.F. 2005); *Healy*, 26 M.J. at 395-96; *Snelling*, 14 M.J. at 268.

¹ We note that the promulgating order does not reflect as a term of the pretrial agreement that the CA waived automatic forfeitures from the date of the action and for a period not to exceed 6 months.

² The appellant's 2 February 2010 clemency submission erroneously requested disapproval of "his bad conduct discharge", and the 5 February 2010 staff judge advocate's recommendation (SJAR) addendum recommending that the clemency request be denied failed to highlight the mistake for the CA. We view this deficiency, however, as a scrivener's error as the CA indicated that he reviewed the record of trial, the Results of Trial, and the original SJAR, which all correctly indicated that the appellant received a dishonorable discharge.

Conclusion

The findings and the approved sentence are affirmed.

For the Court

R.H. TROIDL
Clerk of Court