

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

**Before  
C.L. REISMEIER, F.D. MITCHELL, J.R. PERLAK  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**DIANA G. DELOS-REYES  
LANCE CORPORAL (E-3), U.S. MARINE CORPS**

**NMCCA 201000356  
GENERAL COURT-MARTIAL**

**Sentence Adjudged:** 10 March 2010.

**Military Judge:** LtCol Thomas Sanzi, USMC.

**Convening Authority:** Commanding General, Third Marine Aircraft Wing, Marine Corps Air Station Miramar, San Diego, CA.

**Staff Judge Advocate's Recommendation:** Col K.J. Brubaker, USMC.

**For Appellant:** LCDR Luis Leme, JAGC, USN.

**For Appellee:** Maj William Kirby, USMC.

**28 December 2010**

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**OPINION OF THE COURT**  
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**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 her pleas, of three specifications of wrongful distribution of controlled substances and one specification of wrongful use of a controlled substance, in violation of Article 112a, Uniform Code of Military Justice, 10 U.S.C. § 912a. The appellant was sentenced to confinement for 24 months, reduction to pay grade E-1, a forfeiture of all pay and allowances, and a bad-conduct discharge. The convening authority approved the sentence as adjudged, but suspended all

confinement in excess of 14 months in accordance with the pretrial agreement.

In her sole assignment of error, the appellant avers that the convening authority's action purports to execute the bad-conduct discharge awarded at trial. To the extent that the convening authority's action purported to execute the bad-conduct discharge, it was a nullity. *United States v. Bailey*, 68 M.J. 409 (C.A.A.F. 2009).

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

For the Court

R.H. TROIDL  
Clerk of Court