

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

**Before
L.T. BOOKER, J.K. CARBERRY, E.C. PRICE
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**CHRISTIAN B. EDGERTON
AVIATION MACHINIST'S MATE SECOND CLASS (E-5), U.S. NAVY**

**NMCCA 201000435
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 12 April 2010.

Military Judge: CDR Anthony Johnson, JAGC, USN.

Convening Authority: Commanding Officer, Helicopter Sea
Combat Squadron TWO, Norfolk, VA.

Staff Judge Advocate's Recommendation: LT S.F. Lippoff,
JAGC, USN.

For Appellant: LT Brian A. Whitaker, JAGC, USN.

For Appellee: CDR Kimberly D. Hinson, JAGC, USN; Capt Mark
V. Balfantz, USMC.

23 November 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 special court-martial convicted the appellant, pursuant to his pleas of two specifications of wrongful distribution of controlled substances (oxycodone and hydrocodone), larceny, wrongful uttering of checks, dishonorable failure to pay a just debt, and obtaining services under false pretenses, in violation of Articles 112a, 121, 123a, and 134 Uniform Code of Military Justice, 10 U.S.C. §§ 912a, 921, 923a, and 934. The appellant was sentenced to confinement for eight months, reduction to pay grade E-1, and a

bad-conduct discharge. The convening authority (CA) approved the sentence.

The appellant's sole assignment of error is that a bad-conduct discharge is inappropriately severe. We have examined the record of trial, the appellant's assignment of error, and the Government's answer. We conclude that the findings and the 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

The appellant alleges that a bad-conduct discharge is inappropriately severe for his offenses and in light of his service. Specifically he argues that his seven years of service, including multiple deployments, awards, decorations, absence of misconduct, and outstanding performance of duties demonstrate his rehabilitative potential. In addition, the appellant asserts that his offenses arose from his efforts to care for and provide for his family and to provide pain relief for his then girlfriend.

We conclude that the adjudged sentence is appropriate for this offender and his offenses. *United States v. Baier*, 60 M.J. 382 (C.A.A.F. 2005). The appellant feigned and lied about non-existent injuries and pain during more than 60 separate visits to civilian health care providers at a cost of more than \$40,000.00. He then fraudulently obtained and filled pain medication prescriptions for his girlfriend, and provided those medications to her over a seven-month period. During that same timeframe, he wrote more than 20 bad checks for items of value, with full knowledge that he could not and would not be able to cover those checks. In addition, he dishonorably failed to pay a just debt to a local business by failing to make a single payment for more than 13 months, and lied to both the creditor and a state court judge in the process. Considering the extent of the appellant's misconduct, including his multiple deceptions and status as a second class petty officer with more than six years of service, we find that the sentence in this case is appropriate for this offender and his offenses. *Baier*, 60 M.J. at 382; *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988). Granting any sentence relief would be to engage in clemency, a prerogative reserved for the CA, and we decline to do so. *Healy*, 26 M.J. at 395-96.

Conclusion

Accordingly, we affirm the findings and the sentence as approved by the CA.

For the Court

R.H. TROIDL
Clerk of Court