

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

**Before
C.L. REISMEIER, E.E. GEISER, J.K. CARBERRY
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**JACOB M. EHLE
SEAMAN (E-3), U.S. NAVY**

**NMCCA 201000017
GENERAL COURT-MARTIAL**

Sentence Adjudged: 4 September 2009.

Military Judge: CAPT Moira Modzelewski, JAGC, USN.

Convening Authority: Commander, Navy Region, Mid-Atlantic,
Norfolk, VA.

Staff Judge Advocate's Recommendation: CDR W.A. Record Jr.,
JAGC, USN.

For Appellant: LCDR Anthony S. Yim, JAGC, USN.

For Appellee: Mr. Brian K. Keller, Esq.

4 March 2010

OPINION OF THE COURT

**IN ACCORDANCE WITH RULE 18.2, NMCCA RULES OF PRACTICES 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 possessing a computer containing images of child pornography, in violation of Article 134, Uniform Code of Military Justice, 10 U.S.C. § 934. The appellant was sentenced to a bad-conduct discharge, confinement for 8 months, and reduction to pay grade E-1. The convening authority approved the sentence as adjudged, but suspended all confinement in excess of 6 months for an unstated period. RULE FOR COURTS-MARTIAL 1108(d), MANUAL FOR COURTS-MARTIAL, UNITED STATES (2008 ed.) provides that any period of suspension shall be for a stated period or until the occurrence of an

anticipated future event. The convening authority did not comply with this provision.

Rather than return the record for additional post-trial action, we will resolve the matter. R.C.M. 1108(e) provides that any remaining period of suspension is remitted upon separation. Inasmuch as this decision authorizes execution of the approved bad-conduct discharge, we will, for reasons of judicial economy, resolve the convening authority's oversight in favor of the appellant by disapproving all of the suspended confinement.

We have carefully examined the record of trial. We conclude that the findings and the approved sentence, as modified below, are correct in law and fact and that no error materially prejudicial to the substantial rights of the appellant remains. See Arts. 59(a) and 66(c), UCMJ.

The findings are affirmed. Only so much of the approved sentence as provides for a reduction to pay grade E-1, confinement for a period of 6 months, and a bad-conduct discharge are affirmed. The remaining confinement is disapproved. The supplemental court-martial order will reflect that the appellant pleaded guilty to Charge II.

For the Court

R.H. TROIDL
Clerk of Court