

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

**Before
J.A. MAKSYM, J.R. PERLAK, T.R. ZIMMERMANN
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**BORIS V. ITKIS
BOATSWAIN'S MATE SEAMAN (E-3), U.S. NAVY**

**NMCCA 201000298
GENERAL COURT-MARTIAL**

Sentence Adjudged: 13 January 2010.

Military Judge: CDR Kevin O'Neil, JAGC, USN.

Convening Authority: Commander, Navy Region Southwest, San Diego, CA.

Staff Judge Advocate's Recommendation: LCDR M.A. Marshall, JAGC, USN.

For Appellant: CAPT Paul Jones, JAGC, USN.

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

9 November 2010

OPINION OF THE COURT

AS AN UNPUBLISHED DECISION, THIS OPINION DOES NOT SERVE AS PRECEDENT.

PER CURIAM:

This case was submitted to the court on its merits. The court notes that Court-Martial Order (CMO) 09-10, dated 11 May 2010 neither sets forth the charges and specifications on which the appellant was arraigned, or a summary thereof, nor indicates the findings or other disposition of each charge and its specifications. RULE FOR COURTS-MARTIAL 1114(c)(1), MANUAL FOR COURTS-MARTIAL, UNITED STATES (2008 ed.). We test this error under a harmless error standard and find that no error materially prejudicial to the substantial rights of the appellant was committed. Arts. 59(a) and 66(c), UCMJ. See *United States v. Crumpley*, 49 M.J. 538, 539 (N.M.Ct.Crim.App. 1998) (citing *United States v. Kotteakos*, 328 U.S. 750 (1946)). The appellant is

entitled to have his official records correctly reflect the results of this proceeding. We will order corrective action in our decretal paragraph. *Id.*

Accordingly, we affirm the findings and the sentence as approved by the convening authority. We order that the supplemental CMO reflect the charges and specifications upon which the appellant was arraigned, along with the pleas and findings or other disposition of each charge and specification.

For the Court

R.H. TROIDL
Clerk of Court