

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

**Before  
F.D. MITCHELL, J.A. MAKSYM, D.O. HARRIS  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**OMAR H. LUGO  
PRIVATE FIRST CLASS (E-2), U.S. MARINE CORPS**

**NMCCA 200900448  
SPECIAL COURT-MARTIAL**

**Sentence Adjudged:** 4 June 2009.

**Military Judge:** LtCol Robert Ward, USMC.

**Convening Authority:** Commanding Officer, 3d Battalion,  
6th Marines, Camp Lejeune, NC.

**Staff Judge Advocate's Recommendation:** Col W.G. Perez, USMC.

**For Appellant:** CDR Don Evans, JAGC, USN.

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

**26 January 2010**

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**OPINION OF THE COURT**  
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**AS AN UNPUBLISHED DECISION, THIS OPINION DOES NOT SERVE AS PRECEDENT.**

**PER CURIAM:**

A military judge sitting as a special court-martial convicted the appellant, consistent with his pleas, of unauthorized absence and wrongful use of marijuana, in violation of Articles 86 and 112a, Uniform Code of Military Justice, 10 U.S.C. §§ 886 and 912a. The appellant was sentenced to confinement for 90 days, reduction to pay grade E-1, a forfeiture of \$933.00 pay per month for three months, and a bad-conduct discharge. The convening authority approved the sentence as adjudged and, except for the bad-conduct discharge, ordered it executed, but suspended all confinement in excess of 60 days pursuant to a pretrial agreement.

We note that pertaining to Charge I and its sole specification the military judge convicted the appellant of unauthorized absence from 22 January 2009 until 3 April 2009, vice the 2 April 2009 termination date to which he pleaded and allocuted during the providence inquiry. We will take corrective action in our decretal paragraph.

With regards to Charge I and its specification, we affirm an unauthorized absence from 22 January 2009 until 2 April 2009. The remaining findings and sentence, as approved by the convening authority, are also affirmed. The modification of Charge I does not significantly change the sentencing landscape; therefore, no additional action is required.

For the Court

R.H. TROIDL  
Clerk of Court