

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

**Before  
L.T. BOOKER, E.C. PRICE, B.G. FILBERT  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**JESSE R. MENDOZA  
CORPORAL (E-4), U.S. MARINE CORPS**

**NMCCA 201000114  
GENERAL COURT-MARTIAL**

**Sentence Adjudged:** 21 September 2009.  
**Military Judge:** LtCol Thomas Sanzi, USMC.  
**Convening Authority:** Commanding General, 1st Marine  
Division (REIN), Camp Pendleton, CA.  
**Staff Judge Advocate's Recommendation:** Maj M.J. Kent,  
USMC.  
**For Appellant:** CDR Don Evans, JAGC, USN.  
**For Appellee:** Mr. Brian Keller, Esq.

**26 August 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 general court-martial convicted the appellant, pursuant to his pleas, of attempted sale of military property, sexual harassment, assault consummated by battery, and sale of military property, in violation of Articles 80, 92, 108, and 128, Uniform Code of Military Justice, 10 U.S.C. §§ 880, 892, 908, and 920. The appellant was sentenced to confinement for nine months, forfeiture of all pay and allowances, to be fined \$500.00, reduction to pay grade E-1, and a bad-conduct discharge. The convening authority approved the sentence.

This case was submitted without specific assignment of error. During the course of our review, however, we have concluded that the appellant did not establish a sufficient factual basis as to all the victims listed in the specification of Charge I. We will take the necessary action in our decretal paragraph.

The finding of guilty to the sole specification of Charge I is affirmed except for the names of the first four victims (LCpl HLM; PFC RDD; LCpl VNP; and Cpl DDG). The remaining findings of guilty are affirmed. There being no dramatic change in the penalty landscape, we conclude that the adjudged sentence would not have been any less had the error not occurred. See *United States v. Moffeit*, 63 M.J. 40 (C.A.A.F. 2006); *United States v. Buber*, 62 M.J. 476 (C.A.A.F. 2006). The sentence is affirmed. We conclude that no error materially prejudicial to the substantial rights of the appellant remains and that the findings, as modified, and sentence are correct in law and fact. Arts. 59(a) and 66(c), UCMJ.

For the Court

R.H. TROIDL  
Clerk of Court