

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

**Before
L.T. BOOKER, M. FLYNN, B.G. FILBERT
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**MATTHEW T. SHUMWAY
PRIVATE FIRST CLASS (E-2), U.S. MARINE CORPS**

**NMCCA 201000102
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 8 October 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: CAPT Frederic Matthews, 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 special court-martial convicted the appellant, consistent with his pleas, of accessory after the fact, two specifications of unauthorized absence, insubordinate conduct, one specification each of fleeing from apprehension and escaping custody, and wrongful use of methamphetamine, in violation of Articles 78, 86, 91, 95, and 112a, Uniform Code of Military Justice, 10 U.S.C. §§ 878, 886, 891, 895, and 912a. The approved sentence was confinement for eight months, reduction to pay grade E-1, forfeiture of \$900.00 pay per month for a period of eight months, and a bad-conduct discharge.

After careful consideration of the record, submitted without assignment of error, we note that the providence inquiry established the appellant's guilt to a period of unauthorized absence beginning on 27 February 2009 and ending the same day, 27 February 2009, as opposed to beginning on 27 February 2009 and ending the next day, 28 February 2009, as alleged in the specification. For Specification 1 of Charge II, therefore, we affirm only a finding of guilty of an unauthorized absence commencing on 27 February 2009 and terminating on 27 February 2009. The remaining findings of guilty are affirmed. We conclude that no error materially prejudicial to the substantial rights of the appellant remains. Arts. 59(a) and 66(c), UCMJ.

There being no dramatic change in the sentencing landscape, we affirm the sentence as approved by the convening authority. Art. 66(c), UCMJ; *United States v. Buber*, 62 M.J. 476, 479 (C.A.A.F. 2006).

For the Court

R.H. TROIDL
Clerk of Court