

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

**Before  
J.K. CARBERRY, R.Q. WARD, M.D. MODZELEWSKI  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**ROS L. DAVIS  
BOATSWAIN'S MATE SECOND CLASS (E-5), U.S. NAVY**

**NMCCA 201000302  
GENERAL COURT-MARTIAL**

**Sentence Adjudged:** 26 January 2010.

**Military Judge:** LtCol Michael D. Mori, USMC.

**Convening Authority:** Commander, Navy Region Hawaii, Pearl Harbor, HI.

**Staff Judge Advocate's Recommendation:** CAPT R.B. Blazewick, JAGC, USN.

**For Appellant:** Maj Jeffrey R. Liebenguth, USMC.

**For Appellee:** LT Kevin D. Shea, JAGC, USN.

**29 December 2011**

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**OPINION OF THE COURT**  
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**THIS OPINION DOES NOT SERVE AS BINDING PRECEDENT, BUT MAY BE CITED AS PERSUASIVE AUTHORITY UNDER NMCCA RULE OF PRACTICE AND PROCEDURE 18.2.**

PER CURIAM:

By decision dated 16 December 2010, this court affirmed the findings and sentence in the appellant's court-martial, awarding no relief as to the error assigned by the appellant. The appellant subsequently petitioned the Court of Appeals for the Armed Forces (CAAF) for review and on 21 September 2011, CAAF vacated this court's decision and returned the record of trial to the Judge Advocate General for remand to this court "for consideration of the granted issue in light of *United States v. Fosler*, 70 M.J. 225 (C.A.A.F. 2011)."

Regarding the remanded question, we again affirm the findings of guilty, pursuant to the appellant's pleas, for the reasons set for in *United States v. Hackler*, \_\_\_ M.J. \_\_\_ (N.M.Ct.Crim.App. 22 Dec 2011). We again conclude that the findings and sentence are correct in law and fact and that no error materially prejudicial to the substantial rights of the appellant was committed. Arts. 59(a) and 66(c), UCMJ. Accordingly, we affirm the findings and the sentence as approved by the convening authority.

For the Court

R.H. TROIDL  
Clerk of Court