

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

**Before  
J.A. MAKSYM, R.E. BEAL, D.O. VOLLENWEIDER  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**JOSE L. HERNANDEZ, JR.  
CORPORAL (E-4), U.S. MARINE CORPS**

**NMCCA 201100296  
GENERAL COURT-MARTIAL**

**Sentence Adjudged:** 14 February 2011.

**Military Judge:** LtCol Gregory Simmons, USMC.

**Convening Authority:** Commanding General, 1st Marine  
Division (REIN), Camp Pendleton, CA.

**Staff Judge Advocate's Recommendation:** Col D.K. Margolin,  
USMC.

**For Appellant:** Capt Peter Griesch, USMCR.

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

**8 September 2011**

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**OPINION OF THE COURT**  
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After careful consideration of the record, submitted without assignment of error, we affirm the findings and sentence as approved by the convening authority.<sup>1</sup> Art. 66(c), Uniform Code of Military Justice, 10 U.S.C. § 866(c).

For the Court

R.H. TROIDL  
Clerk of Court

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<sup>1</sup> To the extent that the convening authority's action purports to order the punitive discharge upon completion of appellate review it is a nullity. See *United States v. Tarniewicz*, \_\_ M.J. \_\_, 2011 CCA LEXIS 150 (N.M.Ct.Crim.App. 30 Aug 2011)