

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

**Before
J.A. MAKSYM, J.R. PERLAK, B.L. PAYTON-O'BRIEN
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**MICHAEL C. COLLEY
PRIVATE FIRST CLASS (E-2), U.S. MARINE CORPS**

**NMCCA 201100320
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 29 March 2011.

Military Judge: Col Daniel Daugherty, USMC.

Convening Authority: Commanding Officer, Headquarters and Service Battalion, Marine Corps Base, Quantico, VA.

Staff Judge Advocate's Recommendation: LtCol C.M. Greer, USMC.

For Appellant: LCDR Ronald Hocevar, JAGC, USN.

For Appellee: LCDR M.T. Schelp, JAGC, USN; Maj William C. Kirby, USMC.

8 December 2011

OPINION OF THE COURT

After careful consideration of the record, and the pleadings of the parties, we affirm the findings and sentence as approved by the convening authority. Art. 66(c), Uniform Code of Military Justice, 10 U.S.C. § 866(c). To the extent that the convening authority's action purports to order the punitive discharge executed upon completion of appellate review, as asserted by the appellant in his sole assignment of error, it is

a nullity and does not require corrective action. *See United States v. Bailey*, 68 M.J. 409 (C.A.A.F. 2009); *United States v. Tarniewicz*, 70 M.J. 543 (N.M.Ct.Crim.App. 2011).

For the Court

R.H. TROIDL
Clerk of Court