

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

**Before  
J.A. MAKSYM, J.R. PERLAK, T.R. ZIMMERMANN  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**NICHOLAS R. HESS  
PRIVATE FIRST CLASS (E-2), U.S. MARINE CORPS**

**NMCCA 201100388  
SPECIAL COURT-MARTIAL**

**Sentence Adjudged:** 19 May 2011.

**Military Judge:** LtCol Robert Ward, USMC.

**Convening Authority:** Commanding Officer, 2d Battalion, 6th  
Marine Regiment, 2d Marine Division, Camp Lejuene, NC.

**Staff Judge Advocate's Recommendation:** Capt Michael Lowe, USMC.

**For Appellant:** CDR Edward Hartman, JAGC, USN.

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

**30 November 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. Art. 66(c), Uniform Code of Military Justice, 10 U.S.C. § 866(c).<sup>1</sup>

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 direct that the punitive discharge will be executed after final judgment it is a legal nullity. See *United States v. Tarniewicz*, 70 M.J. 543 (N.M.Ct.Crim.App. 2011).