

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

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

UNITED STATES OF AMERICA

v.

**LEROY R. PREWITT
PRIVATE (E-1), U.S. MARINE CORPS**

**NMCCA 201100391
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 11 May 2011.

Military Judge: Col Michael B. Richardson, USMC.

Convening Authority: Commanding Officer, Headquarters and Support Battalion, Marine Corps Base, Camp Pendleton, CA.

Staff Judge Advocate's Recommendation: LtCol A.M. Ray, USMC.

For Appellant: CAPT Diane L. Karr, JAGC, USN.

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

20 October 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 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. Tarniewicz*, __ M.J. __, 2011 CCA LEXIS 150 (N.M.Ct.Crim.App. 30 Aug 2011).

For the Court

R.H. TROIDL
Clerk of Court