

**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.**

**CHRISTOPHER W. SOKOLIS  
AVIATION BOATSWAIN'S MATE  
FUELS SECOND CLASS (E-5), U.S. NAVY**

**NMCCA 201100415  
GENERAL COURT-MARTIAL**

**Sentence Adjudged:** 19 April 2011.

**Military Judge:** CDR Douglas Barber, JAGC, USN.

**Convening Authority:** Commander, Naval Air Force Atlantic,  
Norfolk, VA.

**Staff Judge Advocate's Recommendation:** CDR B.T. Hanna,  
JAGC, USN.

**For Appellant:** Capt Michael Berry, USMC.

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

**27 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:

A military judge sitting as a general court-martial convicted the appellant, consistent with his pleas, of thirteen specifications of attempt,<sup>1</sup> in violation of Article 80, Uniform

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<sup>1</sup> Specifications 1, 2, 3, 5, 7, 9, 11, and 13 allege attempts at communicating indecent language to a minor. Specifications 4, 6, 8, 10, and 12 allege attempts to engage a minor in a lewd act. Only the specifications involving

Code of Military Justice, 10 U.S.C. § 880. The military judge sentenced the appellant to confinement for two years and a bad-conduct discharge. The convening authority (CA) approved the findings and sentence as adjudged but, in accordance with a pretrial agreement, suspended all confinement in excess of 15 months for the period of confinement served plus 12 months.

The appellant has submitted one assignment of error, asserting that the specifications alleging an attempt to communicate indecent language to a minor fail to state an offense, in that the terminal element of the target offense of the attempt was not pled.

We have carefully examined the record of trial, the appellant's assignment of error, and the pleadings. We conclude that the findings and the 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.

### **Background**

The appellant was a twelve-year Sailor assigned to the USS GEORGE H.W. BUSH (CVN 77). He engaged in internet communications of a sexual nature with two special agents of the Naval Criminal Investigative Service who he believed to be two females aged 13 and 14.

### **Failure to State an Offense**

Whether a specification states an offense is a question of law which we review *de novo*. *United States v. Crafter*, 64 M.J. 209, 211 (C.A.A.F. 2006). A specification states an offense if (1) it alleges, either expressly or by implication, every element of the offense, (2) provides the accused notice of the charge, and (3) protects against double jeopardy. *United States v. Dear*, 40 M.J. 196, 197 (C.M.A. 1994).

Article 80, UCMJ, makes it an offense to attempt to commit offenses, "under this chapter." We proceed from the predicate holdings that the various offenses listed under the General Article are offenses under Chapter 47 of title 10, and are satisfied that the eight specifications challenged by the appellant state an offense. *See United States v. Jones*, 68 M.J. 465, 472 (C.A.A.F. 2010). We likewise hold that there is no

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indecent language as an offense under Article 134, UCMJ, are the subject of the assigned error.

legal requirement to overtly plead, or otherwise include by necessary implication, the particularized elements of the target offense, for attempts. We are not persuaded by so much of the appellant's argument which attempts to draw a legal distinction between the target offenses under Article 134 and those in the enumerated Articles.

A specification challenged for the first time on appeal is liberally construed in favor of its validity. See *United States v. Watkins*, 21 M.J. 208, 209 (C.M.A. 1986). The appellant raised no objections at trial. He entered into a lengthy stipulation in which he variously agreed that his conduct was service discrediting. Prosecution Exhibit 1. He entered unconditional guilty pleas to the specifications as alleged. He admitted in court that he committed all elements of the offense, having been additionally advised of the elements of the target offense, to include their terminal element. Although not an element of the attempt specification, this record contains numerous places where the appellant admits that his conduct was service discrediting. He has not demonstrated any prejudice. We find that for all the challenged specifications, the appellant received adequate notice of the offenses alleged and is protected against further prosecution. See *Dear*, 40 M.J. at 197.

Upon *de novo* review, we are satisfied that the challenged specifications expressly allege the elements of attempted communication of indecent language to a minor and that the challenged specifications under Charge I properly state offenses.

### **Conclusion**

We affirm the findings and the sentence as approved by the convening authority.

For the Court

R.H. TROIDL  
Clerk of Court