

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

**Before
J.K. CARBERRY, R.Q. WARD, G.G. GERDING
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**HERMAN E. BANKS III
STAFF SERGEANT (E-6), U.S. MARINE CORPS**

**NMCCA 201100474
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 28 June 2011.

Military Judge: LtCol Stephen Keane, USMC.

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

Staff Judge Advocate's Recommendation: Capt Andrew Wallace, USMC.

For Appellant: CAPT Diane Karr, JAGC, USN.

For Appellee: Mr. Brian Keller, Esq.

30 November 2011

OPINION OF THE COURT

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).¹

For the Court

R.H. TROIDL
Clerk of Court

¹ 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).