

**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.

**NIEL W. HUMPHREY
LANCE CORPORAL (E-3), U.S. MARINE CORPS**

**NMCCA 201100539
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 23 June 2011.

Military Judge: LtCol Gregory L. Simmons, USMC.

Convening Authority: Commanding Officer, 2d Battalion, 4th Marines, 5th Marine Regiment, 1st Marine Division (Rein), FMF, Camp Pendleton, CA.

Staff Judge Advocate's Recommendation: Col D.K. Margolin, USMC.

For Appellant: CDR Luis P. Leme, JAGC, USN.

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

20 December 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).