

**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 K. BRADEN
LANCE CORPORAL (E-3), U.S. MARINE CORPS**

**NMCCA 201000588
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 9 August 2010.

Military Judge: Maj Robert G. Palmer, USMC.

Convening Authority: Commanding Officer, Headquarters and Service Battalion, Marine Corps Recruit Depot, Parris Island, SC.

Staff Judge Advocate's Recommendation: LtCol E.R. Kleis, USMC.

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

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

28 February 2011

OPINION OF THE COURT

**IN ACCORDANCE WITH RUE 18.2, NMCCA RULES OF PRACTICES AND PROCEDURE, THIS
OPINION DOES NOT SERVE AS PRECEDENT.**

PER CURIAM:

A military judge sitting as a special court-martial convicted the appellant, consistent with his pleas, of an attempt to distribute a controlled substance, wrongful manufacturing of a controlled substance, wrongful use of a controlled substance, larceny of military property, transporting a stolen machine gun by mail, and wrongfully transferring a machine gun in violation of Articles 80, 112a, 121, and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 880, 912a, 921, and 934. The approved sentence was confinement for 12 months, forfeiture of \$964.00 pay

per month for 12 months, reduction to pay grade E-1, and a bad-conduct discharge.

The case was submitted to us with a single assignment of error, pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).¹ We have carefully reviewed the record of trial, the appellant's assignment of error, and the Government's response. We find the appellant's sole assignment of error, challenging the providency of his plea to attempted distribution of a controlled substance on the basis of mere preparation, to be without merit. The record does not present a substantial basis in law or fact for questioning the plea. See *United States v. Inabinette*, 66 M.J. 320 (C.A.A.F. 2008). The matters raised by the appellant are unsupported by the record and do not merit relief. *United States v. Matias*, 25 M.J. 356, 363 (C.M.A. 1987).

The findings and the sentence are correct in law and fact, and no error materially prejudicial to the substantial rights of the appellant exists. Arts. 59(a) and 66(c), UCMJ. Accordingly, we affirm the findings and the sentence, as approved by the convening authority.

For the Court

R.H. TROIDL
Clerk of Court

¹ The appellant avers that his plea of guilty is improvident to the attempted wrongful distribution of a controlled substance, involving hallucinogenic mushrooms, on the basis that the state of cultivation of his mushroom crop, combined with an ambiguous response or rejection of his distribution offer to a co-worker, served to make his acts mere preparation, versus substantial steps sufficient to support the elements for attempt.