

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

**Before
J.A. MAKSYM, B.L. PAYTON-O'BRIEN, D.O. VOLLENWEIDER
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**ZHENYA N. FORD
PRIVATE FIRST CLASS (E-2), U.S. MARINE CORPS**

**NMCCA 201000624
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 5 August 2010.

Military Judge: LtCol G.W. Riggs, USMC.

Convening Authority: Commanding Officer, Marine Corps
Combat Service Support Schools, Training Command, Camp
Lejeune, N.C.

Staff Judge Advocate's Recommendation: LtCol J.L. Gruter,
USMC.

For Appellant: CAPT Paul Jones, JAGC, USN.

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

22 March 2011

OPINION OF THE COURT

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

PER CURIAM:

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).

We also note that the convening authority approved the sentence, which included a bad-conduct discharge, suspended confinement in excess of time served, and then ordered the entire sentence executed. Under Article 71(c)(1), UCMJ, a punitive discharge cannot be ordered executed until after the completion

of direct appellate review and there is a final judgment as to the legality of the proceedings. Thus, to the extent that the convening authority's action purported to execute the bad-conduct discharge, it was a nullity that does not require correction. *United States v. Bailey*, 68 M.J. 409 (C.A.A.F. 2009).

For the Court

R.H. TROIDL
Clerk of Court