

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

**Before  
C.L. REISMEIER, F.D. MITCHELL, R.E. BEAL  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**MATTHEW R. GIFFORD  
MASTER-AT-ARMS THIRD CLASS (E-4), U.S. NAVY**

**NMCCA 201100106  
SPECIAL COURT-MARTIAL**

**Sentence Adjudged:** 7 December 2010.

**Military Judge:** CAPT Tierney M. Carlos, JAGC, USN.

**Convening Authority:** Commanding Officer, U.S. Naval Support Activity, Bahrain.

**Staff Judge Advocate's Recommendation:** LCDR B.P. Powers, JAGC, USN.

**For Appellant:** LCDR Ronald Hocevar, JAGC, USN.

**For Appellee:** LCDR Matthew T. Schelp, JAGC, USN; Capt Mark V. Balfantz, USMC.

**31 May 2011**

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

PER CURIAM:

A military judge sitting as a special court-martial convicted the appellant, pursuant to his pleas, of one specification of violating a lawful general regulation and one specification of making a false official statement, violations of Articles 92 and 107, Uniform Code of Military Justice, 10 U.S.C. §§ 892 and 907. The appellant was sentenced to 60 days confinement, forfeiture of two-thirds pay per month for two months (sic), reduction to pay grade E-1, and a bad-conduct discharge. The convening authority (CA) approved the sentence as

adjudged except for confinement which, pursuant to a pretrial agreement, was disapproved.

The appellant asserts two errors within the convening authority's action which merit corrective action: 1) the appellant's plea and the finding to the sole specification under Charge III was incorrectly recorded as being "guilty," and 2) the appellant's forfeitures were not stated in the whole dollar amount. The Government concedes the errors but argues they are harmless. We are convinced 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.

As to the first error, the Government withdrew Charge III and its specification after arraignment but prior to the entry of pleas. The promulgating order incorrectly records that the appellant pled not guilty to Charge III and that as to findings it was withdrawn. For the specification under Charge III, the promulgating order incorrectly reflects a plea and finding of guilty. The appellant is entitled to accurate records regarding his court-martial and we will direct corrective action in our decretal paragraph. *United States v. Crumpley*, 49 M.J. 538, 539 (N.M.Ct.Crim.App. 1998). As to the second error, notwithstanding the failure of the military judge to specify the forfeitures in a whole dollar amount and the CA's failure to resolve this error, we can easily ascertain from the record the correct amount and take corrective action. *United States v. Roman*, 46 C.M.R. 78, 81-82 (C.M.A. 1972).

We direct that the supplemental court-martial order correctly reflect that Charge III and its specification were withdrawn prior to the entry of pleas. We affirm the findings and a sentence of reduction to pay grade E-1, forfeiture of \$964.00 pay per month for two months, and a bad-conduct discharge.

For the Court

R.H. TROIDL  
Clerk of Court