

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

**Before
F.D. MITCHELL, R.E. BEAL, D.O. HARRIS
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**ROBERT W. LINDER
SEAMAN (E-3), U.S. NAVY**

**NMCCA 201000124
GENERAL COURT-MARTIAL**

Sentence Adjudged: 29 October 2009.

Military Judge: CAPT Moira Modzelewski, JAGC, USN.

Convening Authority: Commander, Navy Region, Mid-Atlantic, Norfolk, VA.

Staff Judge Advocate's Recommendation: CDR W.A. Record, Jr., JAGC, USN (12 Feb 2010); CDR F.D. Hutchison, JAGC, USN (23 Jul 2010).

For Appellant: Capt Bow Bottomly, USMC.

For Appellee: Maj Jonathan N. Nelson, USMC.

31 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:

A general court-martial composed of members with enlisted representation convicted the appellant, contrary to his pleas, of two specifications of attempted receipt of child pornography and possession of child pornography in violation of Articles 80 and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 880 and 934. After the announcement of findings, the military judge ruled that the attempted receipt of child pornography alleged in the sole specification under Article 80, UCMJ, and the attempted receipt of child pornography alleged in Specification 2 under Article 134, UCMJ, were multiplicitious for findings and conditionally dismissed the Article 80 offense. The appellant was sentenced to

reduction to pay grade E-1, 7 months confinement, and a bad-conduct discharge. The convening authority approved the sentence as adjudged.

On his initial appeal the appellant assigned three errors regarding the post trial review of his court-martial. All errors stemmed from the staff judge advocate's recommendation, which advised the convening authority the appellant was convicted of all three specifications but failed to advise the convening authority that one of the specifications was dismissed by the military judge. By an order dated 14 July 2010, we set aside the convening authority's action and returned the record of trial to the Judge Advocate General for remand to the convening authority for proper post-trial review.

The case is again before us with no additional assigned errors. After careful consideration of the entire record, we affirm the findings and sentence as approved by the convening authority. Arts. 59(a) and 66(c).

For the Court

R.H. TROIDL
Clerk of Court