

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

**Before  
J.A. MAKSYM, B.L. PAYTON-O'BRIEN, T.R. ZIMMERMANN  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**AARON L. MARSHALL  
LANCE CORPORAL (E-3), U.S. MARINE CORPS**

**NMCCA 201000500  
SPECIAL COURT-MARTIAL**

**Sentence Adjudged:** 19 May 2010.

**Military Judge:** Maj Robert G. Palmer, USMC.

**Convening Authority:** Commanding Officer, MALS-31, MAG-31,  
2d Marine Aircraft Wing, U.S. Marine Corps Forces Command,  
MCAS, Beaufort, SC.

**Staff Judge Advocate's Recommendation:** Maj V.C. Danyluk,  
USMC.

**For Appellant:** CAPT Stephen White, JAGC, USN.

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

**15 February 2011**

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**OPINION OF THE COURT**  
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**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 violating a lawful general order, violating a lawful order, fleeing apprehension, resisting apprehension, drunk driving, assault, and drunk and disorderly conduct, respectively violations of Articles 92, 95, 111, 128, and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 892, 895, 911, 928, and 934. The military judge sentenced the appellant to confinement for 12 months, reduction

to pay grade E-1, forfeiture of \$964.00 pay per month for 12 months, and a bad-conduct discharge from the U.S. Marine Corps. The convening authority approved the sentence as adjudged, and suspended all confinement in excess of 90 days in accordance with the pretrial agreement.

This case was submitted without specific assignment of error. In the course of our review, however, we have determined that the appellant's plea to Specification 1 of Charge 1 (driving on base while his driver's license was suspended in violation of a lawful general order) was improvident in that he testified during the providence inquiry that he did not know that his license was suspended at the time that he attempted to drive upon the installation. While the military judge did conduct limited questioning on the issue, he failed to elicit information establishing whether the appellant's mistake of fact about the status of his license was honest and reasonable. Because an honest and reasonable mistake of fact as to the status of the appellant's license would constitute a defense to the allegation of driving on the installation with a suspended license, the military judge erred in accepting the appellant's guilty plea to this specification without a more thorough inquiry.

Therefore, we affirm the findings on all charges and specifications except Specification 1 of Charge I; the guilty finding as to Specification 1 of Charge I is set aside and that specification is dismissed. We find that our corrective action does not cause a dramatic change in the penalty landscape and upon reassessment we are confident that absent the error the adjudged sentence would not have been any less than that which was adjudged. Accordingly, the approved sentence is affirmed.

For the Court

R.H. TROIDL  
Clerk of Court