

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

**Before  
J.A. MAKSYM, J.R. PERLAK, R.E. BEAL  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**PAUL O. PERRY III  
CULINARY SPECIALIST SECOND CLASS (E-5), U.S. NAVY**

**NMCCA 201100170  
SPECIAL COURT-MARTIAL**

**Sentence Adjudged:** 7 December 2010.

**Military Judge:** LtCol Eugene Robinson, USMC.

**Convening Authority:** Commander, National Naval Medical Center, Bethesda, MD.

**Staff Judge Advocate's Recommendation:** LCDR K.J. Ian, JAGC, USN.

**For Appellant:** CAPT Diane Karr, JAGC, USN; CAPT Paul LeBlanc, JAGC, USN.

**For Appellee:** CDR M.G. Miller, JAGC, USN; Maj William C. Kirby, USMC.

**25 August 2011**

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**OPINION OF THE COURT**  
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**THIS OPINION DOES NOT SERVE AS BINDING PRECEDENT, BUT MAY BE CITED AS PERSUASIVE AUTHORITY UNDER NMCCA RULE OF PRACTICE AND PROCEDURE 18.2.**

PER CURIAM:

A military judge sitting as a special court-martial convicted the appellant, pursuant to his pleas, of larceny and uttering checks without sufficient funds in violation of Articles 121 and 123a, Uniform Code of Military Justice, 10 U.S.C. §§ 921 and 923a. The military judge sentenced the appellant to reduction to pay grade E-1, 9 months confinement, and a bad-conduct discharge. The convening authority approved the sentence as adjudged but, pursuant to a pretrial agreement, suspended all confinement in excess of thirty days.

We have examined the record of trial, and the parties' briefs. The appellant's sole assigned error is that the sentence, which included a bad-conduct discharge, was unjustifiably severe.<sup>1</sup> We disagree. This court reviews the appropriateness of the sentence *de novo*. *United States v. Baier*, 60 M.J. 382 (C.A.A.F. 2005). Sentence appropriateness involves the judicial function of assuring that justice is done and that the accused gets the punishment he deserves." *United States v. Healy*, 26 M.J. 394, 395 (C.M.A. 1988). We engage in a review that gives "individualized consideration' of the particular accused 'on the basis of the nature and seriousness of the offense and the character of the offender'". *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982) (quoting *United States v. Mamuluy*, 27 C.M.R. 176, 180-181 (C.M.A. 1959)). Applied to the facts of this case, in which the appellant stole over \$4,000.00 worth of goods and cash from the various military exchanges by writing checks which he knew to be worthless, we find the sentence is appropriate.

We conclude 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) Uniform Code of Military Justice. The findings and the sentence as approved by the convening authority are affirmed.

For the Court

R.H. TROIDL  
Clerk of Court

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<sup>1</sup> Raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).