

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

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

**UNITED STATES OF AMERICA**

**v.**

**DON C. TURNAGE, JR.  
PRIVATE FIRST CLASS (E-2), U.S. MARINE CORPS**

**NMCCA 201100042  
SPECIAL COURT-MARTIAL**

**Sentence Adjudged:** 30 November 2010.

**Military Judge:** LtCol Peter S. Rubin, USMC.

**Convening Authority:** Commanding Officer, 5th Marine Regiment, 1st Marine Division (Rein), MarForPac, Camp Pendleton, CA.

**Staff Judge Advocate's Recommendation:** Maj T.D. Le, USMC.

**For Appellant:** LCDR Anthony S. Yim, JAGC, USN.

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

**29 March 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:

Pursuant to his pleas, a special court-martial composed of a military judge alone convicted the appellant of unauthorized absence and wrongful use of marijuana in violation of Articles 86 and 112a of the Uniform Code of Military Justice, 10 U.S.C. §§ 886 and 912a. The military judge sentenced the appellant to confinement for 75 days, reduction to pay grade E-1, and a bad-conduct discharge. The convening authority approved the sentence as adjudged. Pursuant to a pretrial agreement, all confinement in excess of the time served (42 days) was suspended for twelve months from the date of the action.

The case was submitted to the court on its merits. In a footnote, the appellate defense counsel correctly notes that the military judge excepted certain language in the Article 86 specification, but did not enter a specific finding as to the excepted language.

While we find no prejudice to the appellant from this error, he is entitled to correction of his official records. Art. 59(a), UCMJ; *United States v. Glover*, 57 M.J. 696, 697-98 (N.M.Ct.Crim.App. 2002); *United States v. Crumpley*, 49 M.J. 538, 539 (N.M.Ct.Crim.App. 1998). Thus, we will order appropriate relief in our decretal paragraph.

Accordingly, the findings and the sentence, as modified, are affirmed. The supplemental court-martial order shall indicate that the appellant is not guilty of the excepted language "he was apprehended" in the sole specification under Charge I.

For the Court

R.H. TROIDL  
Clerk of Court