

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

**Before
L.T. BOOKER, J.K. CARBERRY, D.O. HARRIS
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**CHRISTOPHER E. WILKERSON
HOSPITALMAN (E-3), U.S. NAVY**

**NMCCA 201000656
GENERAL COURT-MARTIAL**

Sentence Adjudged: 1 September 2010.
Military Judge: CDR Anthony Johnson, JAGC, USN.
Convening Authority: Commander, Navy Region Mid-Atlantic, Norfolk, VA.
Staff Judge Advocate's Recommendation: CDR F.D. Hutchison, JAGC, USN.
For Appellant: CAPT Stephen White, JAGC, USN.
For Appellee: Mr. Brian K. Keller, Esq.

14 April 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:

Pursuant to his pleas, a general court-martial composed of a military judge alone convicted the appellant of possessing child pornography in violation of Article 134, Uniform Code of Military Justice, 10 U.S.C. § 934. The military judge sentenced the appellant to confinement for 12 months, 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 10 months was suspended for the term of confinement plus 12 months.

This case was submitted without specific assignment of error. We note, however, that although the military judge found Specifications 1 and 2 of the Charge to be multiplicitious for findings with Specifications 3 and 4 of the Charge, he neither merged the multiplicitious specifications nor dismissed those specifications. He entered findings of guilty only as to the Charge and Specifications 3 and 4 thereunder. Record at 72. The promulgating order erroneously indicates the findings for Specifications 1 and 2 under the sole Charge as "GUILTY/DISMISSED." General Court-Martial Order No. 16-10 of 22 Nov 2010. We will take and order corrective action in our decretal paragraph. After careful review of the record, we find the findings and sentence are otherwise correct in law and fact, and that the errors do not materially prejudice a substantial right of the appellant. See Arts. 59(a) and 66(c), UCMJ.

Accordingly, Specifications 1 and 2 of the Charge are dismissed, the findings of guilty as to the Charge and Specifications 3 and 4 thereunder are affirmed, and the sentence as approved by the convening authority is affirmed. The supplemental court-martial order shall indicate that the military judge did not enter findings as to Specifications 1 and 2 under the Charge and that those specifications were dismissed by this court.

For the Court

R.H. TROIDL
Clerk of Court