

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

**Before
J.K. CARBERRY, R.Q. WARD, M.D. MODZELEWSKI
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**MARVIN J. GARCIA
PRIVATE FIRST CLASS (E-2), U.S. MARINE CORPS**

**NMCCA 201100352
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 14 April 2011.

Military Judge: Col Michael B. Richardson, USMC.

Convening Authority: Commanding Officer, Headquarters and Support Battalion, Marine Corps Base, Camp Pendleton, CA.

Staff Judge Advocate's Recommendation: LtCol A.M. Ray, USMC (15 Jun 2011); Maj B.W. Stricker, USMC (6 Dec 2011).

For Appellant: CAPT Diane L. Karr, JAGC, USN.

For Appellee: LT Benjamin J. Voce-Gardner, JAGC, USN.

31 January 2012

OPINION OF THE COURT

After careful consideration of the record, and the pleadings of the parties, we affirm the findings and sentence as approved by the convening authority. Art 66(c), Uniform Code of Military Justice, 10 U.S.C. § 866(c).¹

For the Court

R.H. TROIDL
Clerk of Court

¹ To the extent that the convening authority's action purports to order the punitive discharge executed upon completion of appellate review it is a nullity and does not require corrective action. See *United States v. Tarniewicz*, 70 M.J. 543, (N.M.Ct.Crim.App. 2011).