

**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.

**SETH M. DAVIS
PRIVATE FIRST CLASS (E-2), U.S. MARINE CORPS**

**NMCCA 201100618
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 9 September 2011.
Military Judge: LtCol Kevin Harris, USMC.
Convening Authority: Commanding Officer, Headquarters and
Support Battalion, Marine Corps Base, Camp Pendleton, CA.
Staff Judge Advocate's Recommendation: LtCol P.A. Tafoya, USMC.
For Appellant: CDR Edward Hartman, JAGC, USN.
For Appellee: Mr. Brian Keller, Esq.

21 February 2012

OPINION OF THE COURT

After careful consideration of the record, submitted without assignment of error, 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 direct that the punitive discharge will be executed after final judgment it is a legal nullity. See *United States v. Tarniewicz*, 70 M.J. 543 (N.M.Ct.Crim.App. 2011).