

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

**Before
J.K. CARBERRY, R.E. BEAL, R.Q. WARD
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**SCOTT D. BAUER, JR.
LANCE CORPORAL (E-3), U.S. MARINE CORPS**

**NMCCA 201100515
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 11 July 2011.

Military Judge: Col Daniel J. Daugherty, USMC.

Convening Authority: Commanding Officer, Marine Corps
Detachment, Fort Leonard Wood, MO.

Staff Judge Advocate's Recommendation: LtCol J.L. Gruter,
USMC.

For Appellant: CAPT Stephen White, JAGC, USN.

For Appellee: LCDR Gregory R. Dimler, JAGC, USN; LT
Benjamin J. Voce-Gardner, JAGC, USN.

26 January 2012

OPINION OF THE COURT

**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 disobedience of a superior commissioned officer, several specifications of violating a lawful general order, and adultery in violation of Articles 90, 92, and 134 of the Uniform Code of Military Justice, 10 U.S.C. §§ 890, 892, and 934. The appellant was sentenced to confinement for sixty days, reduction to pay grade

E-1, and a bad-conduct discharge. The convening authority approved the sentence as adjudged.

The appellant's sole assigned error is that Specification 1 of Charge V, adultery, fails to state an offense because the terminal element of Article 134 was not alleged. We disagree. The appellant entered an unconditional guilty plea to the Article 134 offense and now challenges it for the first time on appeal. For the reasons cited in *United States v. Hackler*, ___ M.J. ___, No. 201100323, 2011 CCA LEXIS 371 (N.M.Ct.Crim.App. 22 Dec 2011), we find that the specification stated an offense.

The findings and the sentence are affirmed.

For the Court

R.H. TROIDL
Clerk of Court