

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

**Before  
M.D. MODZELEWSKI, E.C. PRICE, R.G. KELLY  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**DANNY J. COHLMAYER  
MAJOR (O-4), U.S. MARINE CORPS**

**NMCCA 201200200  
GENERAL COURT-MARTIAL**

**Sentence Adjudged:** 27 January 2012.

**Military Judge:** Col Deborah M. McConnell, USMC.

**Convening Authority:** Commanding General, 2d Marine Aircraft  
Wing, Cherry Point, NC.

**Staff Judge Advocate's Recommendation:** Col Stephen C.  
Newman, USMC.

**For Appellant:** Maj Rolando R. Sanchez, USMCR.

**For Appellee:** LT Philip S. Reutlinger, JAGC, USN.

**28 September 2012**

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**OPINION OF THE COURT**  
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**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 general court-martial convicted the appellant, pursuant to his pleas, of conduct unbecoming an officer and disorderly conduct, respectively violations of Articles 133 and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 933 and 934. The military judge sentenced the appellant to a letter of reprimand, 30 days of confinement and a dismissal from the service. The convening authority (CA)

disapproved the sentence of reprimand, but approved the remaining sentence.

The appellant's sole assigned error is that the dismissal is inappropriately severe. Having considered the parties' pleadings and the record of trial, we find the findings and the sentence are correct in law and fact and that no error materially prejudicial to the substantial rights of the appellant occurred. Arts. 59(a) and 66(c), UCMJ. We therefore affirm the findings and the approved sentence.

### **Factual Background**

The Article 133 and 134 offenses in this case arise from the same conduct. On three occasions within a week, the appellant placed himself in his vehicle in an area where he would likely be observed by others and masturbated. On two occasions, the appellant parked in a college parking lot; each time, a female college student was startled to observe him masturbating. On the third occasion, the appellant chose to expose himself and masturbate at a service station, where a female Marine officer observed him and reported him. Balanced against these actions, the appellant presented evidence of eighteen years of service, as a hospital corpsman in the Navy and as a pilot in the Marine Corps, including combat missions in Iraq.

### **Severity of Sentence to Dismissal**

"Sentence appropriateness involves the judicial function of assuring that justice is done and that the accused gets the punishment he deserves." *United States v. Healy*, 26 M.J. 394, 395 (C.M.A. 1988). This requires "'individualized consideration' of the particular accused 'on the basis of the nature and seriousness of the offense and character of the offender.'" *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982) (quoting *United States v. Mamaluy*, 27 C.M.R. 176, 180-81 (C.M.A. 1959)).

Dismissing an officer with 18 years of service is, in fact, a strong punishment. We are not unmoved by the appellant's lengthy and accomplished service, both as a Sailor and as a Marine officer. We note, however, that the appellant engaged in three separate public episodes that were singularly service discrediting and unbecoming of an officer. We are satisfied that the appellant's entire sentence is appropriate for him and for his offenses, and we will not invade the province of the CA

by exercising any sort of clemency in this case. *See Healy*, 26 M.J. at 396.

**Conclusion**

Accordingly, we affirm the findings and the sentence as approved by the CA.

For the Court

R.H. TROIDL  
Clerk of Court