

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

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

UNITED STATES OF AMERICA

v.

**RAY F. DEUSENBERRY
PRIVATE (E-1), U.S. MARINE CORPS**

**NMCCA 201100637
GENERAL COURT-MARTIAL**

Sentence Adjudged: 4 August 2011.

Military Judge: Maj Clay A. Plummer, USMC.

Convening Authority: Commanding General, 2d MAW, II Marine Expeditionary Force, Cherry Point, NC.

Staff Judge Advocate's Recommendation: Maj Chris C. Johnson, USMC.

For Appellant: CAPT Brent G. Filbert, JAGC, USN.

For Appellee: Mr. Brian K. Keller, Esq.

29 February 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 general court-martial convicted the appellant, pursuant to his pleas, of making a false official statement and one specification each of receipt, possession, distribution, solicitation of another to distribute child pornography, in violation of Articles 107 and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 907 and 934. The

convening authority (CA) approved the appellant's sentence of confinement for 18 months and a dishonorable discharge.

This case was submitted without specific assignment of error. After conducting our thorough review of the record of trial and allied papers, we are convinced that 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.

However, the CA's action and order, see RULE FOR COURTS-MARTIAL 1114, MANUAL FOR COURTS-MARTIAL, UNITED STATES (2008 ed.), contains error. Because service members are entitled to records that correctly reflect the results of court-martial proceedings, see *United States v. Crumpley*, 49 M.J. 538, 539 (N.M.Ct.Crim.App. 1998), we shall order the necessary corrective action.

The CA's action and order, in addressing the original Charge and Specification 1 under the original Charge, erroneously notes that they were withdrawn and dismissed. The appellant providently pleaded guilty to, and was found guilty of, receipt of child pornography under Specification 1 of the original Charge, consistent with the pretrial agreement and as correctly recorded in the results of trial. We also note that the CA's action incorrectly notes the date on which the appellant's court-martial took place: "4 August 2010" vice "4 August 2011."

The findings and the approved sentence are affirmed. The supplemental court-martial order shall correctly reflect the findings of the court-martial and the date on which it took place.

For the Court

R.H. TROIDL
Clerk of Court