

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

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

**UNITED STATES OF AMERICA**

**v.**

**EDMUND L. GREENE  
AVIATION ORDNANCEMAN SECOND CLASS (E-5), U.S. NAVY**

**NMCCA 201200105  
SPECIAL COURT-MARTIAL**

**Sentence Adjudged:** 16 December 2011.

**Military Judge:** CAPT John K. Waits, JAGC, USN.

**Convening Authority:** Commander, Helicopter Maritime Strike Wing, U.S Atlantic Fleet, Naval Station Mayport, Jacksonville, FL.

**Staff Judge Advocate's Recommendation:** LT Jessie D. Adams, JAGC, USN.

**For Appellant:** CAPT Johnathan W. Bryan, JAGC, USN.

**For Appellee:** Maj Crista D. Kraics, USMC.

**27 December 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 special court-martial convicted the appellant, pursuant to his pleas, of three specifications of making a false official statement, two specifications of larceny, and one specification of forgery, in violation of Articles 107, 121, and 123, Uniform Code of Military Justice, 10 U.S.C. §§ 907, 921, and 923. The military judge sentenced the appellant to reduction to pay grade E-1,

forfeiture of \$978.00 pay per month for three months, confinement for three months, an \$8,000.00 fine (enforceable by an additional three months' confinement), and a bad-conduct discharge. The pretrial agreement in this case did not affect the adjudged sentence, which the convening authority approved and, except for the bad-conduct discharge, ordered executed.

The appellant assigns three errors, two of which allege an unreasonable multiplication of charges and a third averring that the punitive discharge awarded and approved was unjustifiably severe.<sup>1</sup>

### **Background**

A divorce decree was issued February of 2008, formally dissolving the appellant's first marriage. The appellant did not inform his administrative personnel of this change in entitlements status. Rather, on three separate occasions in November 2008, February 2009, and February 2011, the appellant signed official records stating that he remained married, which caused him to be paid additional allowances. Through these repeated false official statements, the appellant was able to steal over \$18,000.00 in undue entitlements over a two and a half year period. He subsequently remarried, but in his efforts to concoct documentation and a timeline that would not expose his false statements and larceny, he forged false filing and judgment dates onto his 2008 divorce decree to cause it to appear to be a late 2010 event.

### **Discussion**

Although the appellant did not make an unreasonable multiplication of charges objection at trial, we decline to adopt the Government's position that the appellant waived this assignment of error by pleading guilty unconditionally. See *United States v. Gladue*, 67 M.J. 311, 314 (C.A.A.F. 2009). As distinguished from *Gladue*, the pretrial agreement in this case does not contain a general waiver. Rather, the appellant waived a list of specific motions, which did not include unreasonable multiplication of charges. Appellate Exhibit I at 5-6, ¶17(f). Reviewing for an unreasonable multiplication of charges, we find none. The specifications address separate false statements, removed in time, resulting in separate thefts, followed by a separate act of forgery. As such, the charges accurately capture the appellant's criminality, are aimed at distinctly

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<sup>1</sup> The appellant's third assignment of error was raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).

separate criminal acts, and do not exaggerate his criminality or unreasonably increase his punitive exposure. We find no evidence of prosecutorial overreaching. *United States v. Quiroz*, 55 M.J. 334, 338 (C.A.A.F. 2001).

We have also considered the severity of the appellant's sentence under Article 66(c), UCMJ, and we find the bad-conduct discharge awarded and approved in this case was appropriate to this offender and these offenses and not unduly severe.

### **Conclusion**

The findings and the sentence are correct in law and fact and they are affirmed. Arts. 59(a), 66(c), UCMJ.

For the Court

R.H. TROIDL  
Clerk of Court