

**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.

**ERNESHA M. HAYNES
CORPORAL (E-4), U.S. MARINE CORPS**

**NMCCA 201100586
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 18 August 2011.

Military Judge: Col Michael Richardson, USMC.

Convening Authority: Commanding Officer, Combat Logistics
Regiment 1, 1st Marine Logistics Group, MarForPac, Camp
Pendleton, CA.

Staff Judge Advocate's Recommendation: LtCol W.M. Pigott,
Jr., USMC.

For Appellant: LtCol Brian Shinkle, USMCR.

For Appellee: Mr. Brian Keller, Esq.

19 April 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:

Pursuant to her pleas, a special court-martial composed of a military judge alone convicted the appellant of conspiracy to commit assault, false official statement, assault, and disorderly conduct, in violation of Articles 81, 107, 128 and 134 of the Uniform Code of Military Justice, 10 U.S.C. §§ 881, 907, 928 and 934. The military judge sentenced the appellant to

confinement for eight months, forfeiture of \$978.00 pay per month for eight months, reduction to pay grade E-2, and a bad-conduct discharge. The convening authority approved the findings and sentence as adjudged.

The case was submitted to the court on its merits. We note that the promulgating order erroneously describes Charge VII as a violation of Article 128, UCMJ, when that charge instead alleged a violation of Article 134, UCMJ. We will order corrective action in our decretal paragraph. We also note that to the extent the convening authority's action purports to execute the bad-conduct discharge it is a nullity and requires no further correction. See *United States v. Bailey*, 68 M.J. 419 (C.A.A.F. 2009).

We find no error materially prejudicial to the substantial rights of the appellant was committed. Arts. 59(a) and 66(c), UMCJ. The findings and sentence are affirmed. The supplemental court-martial order shall indicate that Charge VII is a violation of Article 134, UCMJ.

For the Court

R.H. TROIDL
Clerk of Court