

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

**Before  
B.L. PAYTON-O'BRIEN, R.G. KELLY, R.Q. WARD  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**CHRISTOPHER D. MANALANSAN  
SONAR TECHNICIAN SURFACE SEAMAN (E-3), U.S. NAVY**

**NMCCA 201200387  
GENERAL COURT-MARTIAL**

**Sentence Adjudged:** 15 May 2012.

**Military Judge:** CDR Lewis Booker, JAGC, USN.

**Convening Authority:** Commander, Navy Region Northwest,  
Silverdale, WA.

**Staff Judge Advocate's Recommendation:** LCDR D.E. Reike,  
JAGC, USN.

**For Appellant:** CDR Edward Hartman, JAGC, USN.

**For Appellee:** LT Lindsay Geiselman, JAGC, USN.

**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 general court-martial convicted the appellant, pursuant to his pleas, of two specifications of rape, and one specification of sodomy, in violation of Articles 120 and 125, Uniform Code of Military Justice, 10 U.S.C. §§ 920 and 925. The appellant was sentenced to 13 years confinement, reduction to pay grade E-1, forfeitures of all pay and allowances, and a dishonorable discharge. In accordance with the pretrial agreement, the convening authority

(CA) approved the sentence as adjudged, but suspended all confinement in excess of 10 years.

The appellant raises one assignment of error: that the approved sentence warrants relief under Article 66(c), UCMJ, as the approved sentence to 10 years confinement is unjustifiably severe.<sup>1</sup> We disagree and decline to provide relief.

### **Sentence Appropriateness**

We review the appropriateness of sentences *de novo*. *United States v. Roach*, 66 M.J. 410, 412 (C.A.A.F. 2008). We may only affirm a sentence that we find correct in law and fact based on our review of the entire record. Art. 66(c), UCMJ. We are mindful of our mandated judicial function under *United States v. Healy*, 26 M.J. 394, 396 (C.M.A. 1988), and analysis required by *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982).

Although 10 years confinement may be a harsh punishment, in this particular case it is not an unjustifiably severe punishment. We reach that conclusion after careful consideration of the entire record of trial, including the evidence presented in extenuation and mitigation, and the matters submitted in clemency. We balance that consideration against the nature of the offenses committed by the appellant. Following a verbal altercation within the victim's apartment, the appellant (the victim's husband), tied her up, forcibly removed her clothing, then raped and sodomized her. When the victim tried to resist, the appellant placed his hands on her throat and covered her mouth so that she could not scream. Prosecution Exhibit 1.

After giving the appellant "individualized consideration . . . on the basis of the nature and seriousness of the offense and character of the offender," we are convinced that his sentence is not inappropriately severe. *Snelling*, 14 M.J. at 268 (citation and internal quotation marks omitted). Granting relief would be an act of clemency, a congressionally allocated function entrusted to other authorities, but not to this court. *Healy*, 26 M.J. 395-96. In light of the foregoing, we resolve this assignment adversely to the appellant, finding no error in his adjudged or approved sentence based upon severity.

### **Conclusion**

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<sup>1</sup> This assignment of error is raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1981).

We have examined the record of trial, the appellant's assignment of error, and the parties' pleadings, and conclude 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 was committed. Arts. 59(a) and 66(c), UCMJ. The findings and the sentence as approved are affirmed.

For the Court

R.H. TROIDL  
Clerk of Court