

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

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

**UNITED STATES OF AMERICA**

**v.**

**MICHAEL A. MANGLICMOT  
PRIVATE (E-1), U.S. MARINE CORPS**

**NMCCA 201100435  
GENERAL COURT-MARTIAL**

**Sentence Adjudged:** 3 May 2011.

**Military Judge:** Maj Clay Plummer, USMC.

**Convening Authority:** Commanding General, 1st Marine  
Division (Rein), Camp Pendleton, CA.

**Staff Judge Advocate's Recommendation:** Col D.K. Margolin,  
USMC.

**For Appellant:** LCDR Ronald Hocevar, JAGC, USN.

**For Appellee:** LT Benjamin J. Voce-Gardner, JAGC, USN.

**12 January 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 attempted larceny, unauthorized absence, wrongful use of various controlled substances, larceny, housebreaking, and unlawful entry in violation of Articles 80, 86, 112a, 121, 130, and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 880, 886, 912a, 921, 930, and 934. The appellant was sentenced to confinement for forty-eight months, to pay a fine of \$4,800.00, and to be

discharged from the Naval service with a bad-conduct discharge. The convening authority (CA) disapproved the fine but approved the remaining sentence as adjudged. Pursuant to a pretrial agreement, the CA suspended all confinement in excess of thirty months.

The appellant's sole assigned error is that pursuant to *United States v. Fosler*, 70 M.J. 225 (C.A.A.F. 2011), the sole specification under Additional Charge VII fails to state an offense because it does not allege the terminal element of Article 134. We disagree and conclude that no error materially prejudicial to the appellant's substantial rights was committed. Arts. 59(a) and 66(c), UCMJ.

As we previously discussed in *United States v. Hackler*, \_\_\_ M.J. \_\_\_, No. 201100323, 2011 CCA LEXIS 371 (N.M.Ct.Crim.App. 22 Dec 2011), the appellant's case is significantly distinguishable from *Fosler* because: 1) the appellant did not challenge the adequacy of the specification at trial; 2) he pled guilty to this specification; 3) the military judge ensured that the appellant understood the terminal element; 4) the appellant provided a factual basis to establish he was guilty of both conduct prejudicial to good order and discipline and conduct of a nature to bring discredit upon the armed forces; and 5) he stipulated that his conduct was prejudicial to good order and discipline. Accordingly, we resolve the assigned error against the appellant.

After careful consideration of the record, we affirm the findings and the sentence as approved by the CA.

For the Court

R.H. TROIDL  
Clerk of Court