

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

**Before  
C.L. REISMEIER, J.K. CARBERRY, R.E. BEAL  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**BRYAN M. MARTIN  
INTELLIGENCE SPECIALIST SECOND CLASS (E-5), U.S. NAVY**

**NMCCA 201100457  
GENERAL COURT-MARTIAL**

**Sentence Adjudged:** 20 May 2011.

**Military Judge:** CAPT Moira D. Modzelewski, JAGC, USN.

**Convening Authority:** Commander, Navy Region, Mid-Atlantic,  
Norfolk, VA.

**Staff Judge Advocate's Recommendation:** CDR F.D. Hutchison,  
JAGC, USN.

**For Appellant:** Capt Michael D. Berry, USMC.

**For Appellee:** LT Kevin D. Shea, JAGC, USN.

**21 February 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 four specifications of espionage, and seven specifications of gathering defense information<sup>1</sup> in violation of Articles 106a and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 906a and

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<sup>1</sup> Violations of 18 U.S.C. § 793, charged under Clause 3, Article 134, UCMJ.

934. The appellant was sentenced to confinement for 48 years, reduction to pay grade E-1, total forfeiture of pay and allowances, and a dishonorable discharge. The convening authority approved the sentence as adjudged, but suspended all confinement in excess of 34 years pursuant to a pretrial agreement. The appellant's sole assigned error is that his sentence is inappropriately severe.<sup>2</sup> We disagree.

### **Background**

The appellant, an information specialist second class, intended to parlay his lawful access to highly classified national defense material to his own pecuniary gain by selling it to a foreign government. As a result of the appellant's attempt to make contact with a representative of the Chinese government, he met four times with an agent of the Federal Bureau of Investigation who was working undercover. Surveillance videos of each of the meetings recorded the appellant surrendering state secrets with businesslike detachment to someone he believed to be a Chinese agent.

### **Discussion**

"Sentence appropriateness involves the judicial function of assuring that justice is done and that the accused gets the punishment he deserves." *United States v. Healy*, 26 M.J. 394, 395 (C.M.A. 1988). We engage in a review that gives "'individualized consideration' of the particular accused 'on the basis of the nature and seriousness of the offense and the character of the offender.'" *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982) (quoting *United States v. Mamaluy*, 27 C.M.R. 176, 180-81 (C.M.A. 1959)). After carefully considering the record we are convinced that justice was done and the appellant received the punishment he deserved.

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<sup>2</sup> Raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982)

**Conclusion**

The findings and the sentence are affirmed.

For the Court

R.H. TROIDL  
Clerk of Court