

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

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

UNITED STATES OF AMERICA

v.

**ANGELITO R. MASANGKAY
CHIEF NAVY COUNSELOR (E-7), U.S. NAVY**

**NMCCA 201100656
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 11 August 2011.

Military Judge: CAPT Carole J. Gaasch, JAGC, USN.

Convening Authority: Commander, Navy Recruiting Command,
Millington, TN.

Staff Judge Advocate's Recommendation: LCDR A.M. Cooper,
JAGC, USN.

For Appellant: LT Toren Mushovic, JAGC, USN.

For Appellee: Capt Crista D. Kraics, USMC.

24 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:

A military judge sitting as a special court-martial convicted the appellant, pursuant to his pleas, of three specifications of failing to obey a lawful general regulation, six specifications of maltreatment, one specification of larceny, and two specifications of graft in violation of Articles 92, 93, 121, and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 892, 893, 921, and 934. The military judge

sentenced the appellant to reduction to pay grade E-4, six months confinement, and a bad-conduct discharge. The convening authority (CA) granted clemency in part and reduced confinement by 30 days. The CA approved the remainder of the sentence as adjudged and, with the exception of the bad-conduct discharge, ordered it executed.

The appellant's sole assigned error is that the sentence, which included a bad-conduct discharge, was unjustifiably severe.¹ We disagree. This court reviews the appropriateness of the sentence *de novo*. *United States v. Baier*, 60 M.J. 382 (C.A.A.F. 2005). 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. Mamuluy*, 27 C.M.R. 176, 180-181 (C.M.A. 1959)). We have examined the record of trial, and the parties' briefs. Applying the law to the facts of this case, in which the appellant abused his authority as a chief petty officer, maltreating his subordinates with financial fines and subjecting them to theft and graft, we readily find the sentence appropriate.

We 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) Uniform Code of Military Justice. The findings and the sentence as approved by the CA are affirmed.

For the Court

R.H. TROIDL
Clerk of Court

¹ Raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).