

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

**Before
K.J. BRUBAKER, M.C. HOLIFIELD, P.D. LOCHNER
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**MATTHEW E. CHURCH
AVIATION ORDNANCEMAN AIRMAN APPRENTICE (E-2), U.S. NAVY**

**NMCCA 201500233
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 21 May 2015.

Military Judge: Maj Michael D. Zimmerman, USMC.

Convening Authority: Commanding Officer, USS NIMITZ (CVN 68).

Staff Judge Advocate's Recommendation: LCDR C.J. Deerwester, JAGC, USN.

For Appellant: CAPT Bree A. Ermentrout, JAGC, USN.

For Appellee: Brian K. Keller, Esq.

8 December 2015

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 plea, of larceny of a value over \$500.00, in violation of Article 121, Uniform Code of Military Justice, 10 U.S.C. § 921. The military judge sentenced the appellant to 155 days' confinement, reduction to pay grade E-1, and a bad-conduct discharge. The convening authority approved the adjudged sentence.

Although, not raised as error, we note that the court-martial order (CMO) inaccurately summarizes the sole specification under the Charge. The original specification charged larceny "on divers occasions" from October 2014 to December 2014. Prior to the plea, the Government withdrew the language "on divers occasions" from the specification. Although this was correctly noted in the report of result of trial and incorporated by reference in the staff judge advocate's Recommendation, the CMO did not reflect the change.

We test error in CMOs under a harmless error standard, *United States v. Crumpley*, 49 M.J. 538, 539 (N.M.Ct.Crim.App. 1998), and find this error did not materially prejudice the appellant's substantial rights. However, the appellant is entitled to accurate court-martial records. *Id.* Accordingly, we order the necessary corrective action in our decretal paragraph.

The supplemental CMO shall accurately reflect that the words "on divers occasions" were withdrawn prior to the entry of pleas as to the sole specification under the Charge. We are convinced 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 are affirmed.

For the Court

R.H. TROIDL
Clerk of Court

