

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

**Before  
F.D. MITCHELL, J.R. MCFARLANE, K.J. BRUBAKER  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**MARK A. MIEARS  
ELECTRONICS TECHNICIAN SECOND CLASS (E-5), U.S. NAVY**

**NMCCA 201400434  
GENERAL COURT-MARTIAL`**

**Sentence Adjudged:** 30 July 2014.

**Military Judge:** Col Paul H. McConnell, USMC.

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

**Staff Judge Advocate's Recommendation:** CDR S.J. Gawronski,  
JAGC, USN.

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

**For Appellee:** Mr. Brian K. Keller, Esq.

**29 January 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 general court-martial convicted the appellant, in accordance with his pleas, of one specification each of wrongfully committing indecent conduct and knowingly possessing at least one image of child pornography in violation of Articles 120 and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 920 and 934. The appellant was sentenced to confinement for 24 months, reduction to the lowest enlisted pay grade, forfeiture of all pay and allowances, and a

dishonorable discharge. The convening authority approved the sentence as adjudged and, except for the punitive discharge, ordered it executed.

Although the appellant's case was submitted to this court without assignment of error, we note that the convening authority, in taking action, failed to indicate disapproval of the adjudged forfeitures as required by the pretrial agreement. The convening authority separately suspended automatic forfeitures pursuant to the defense counsel's request and waived them in his action. We will take appropriate corrective action in our decretal paragraph. Otherwise, after careful examination of the record of trial, we are satisfied that the findings and the sentence are correct in law and fact and that no further error materially prejudicial to the substantial rights of the appellant occurred. Arts. 59(a) and 66(c), UCMJ.

The findings and only that part of the sentence which extends to confinement for 24 months, reduction to the lowest enlisted pay grade, and a dishonorable discharge are affirmed. *United States v. Cox*, 46 C.M.R. 69, 72 (C.M.A. 1972).

For the Court

R.H. TROIDL  
Clerk of Court