

**UNITED STATES NAVY–MARINE CORPS  
COURT OF CRIMINAL APPEALS**

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**No. 201300137**

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**UNITED STATES OF AMERICA**

Appellee

v.

**FRANCIS L. CAPTAIN**

Sergeant (E-5), U.S. Marine Corps

Appellant

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Appeal from the United States Navy-Marine Corps Trial Judiciary

Military Judge: Commander John A. Maksym, JAGC, USN.

For Appellant: Captain David A. Peters, USMCR.

For Appellee: Brian K. Keller, Esq.

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Decided 30 November 2016

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Before CAMPBELL, RUGH, and HUTCHISON, *Appellate Military Judges*

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After careful consideration of the record, submitted without assignment of error, we affirm the findings and sentence as approved by the convening authority. Art. 66(c), Uniform Code of Military Justice, 10 U.S.C. § 866(c). The supplemental court-martial order will include the following corrected summary of Specification 2 under Charge I:

In that Sergeant Francis L. Captain, U.S. Marine Corps, on active duty, did, at Iwakuni, Japan, on or about 17 January 2012, cause Mrs. RMN to engage in sexual contact, to wit: Sergeant Francis L. Captain digitally penetrated the buttocks and anus of Mrs. RNM, who was substantially incapacitated or substantially incapable of declining participation in the sexual contact or substantially incapable of communicating unwillingness to engage in the sexual contact.

For the Court

R.H. TROIDL  
Clerk of Court

