

UNITED STATES NAVY–MARINE CORPS
COURT OF CRIMINAL APPEALS

No. 201600105

UNITED STATES OF AMERICA

Appellee

v.

SHANE D. MANUEL

Petty Officer Third Class (E-4), U.S. Navy

Appellant

Appeal from the United States Navy-Marine Corps Trial Judiciary

Military Judge: Major Michael Libretto, USMC.

For Appellant: Lieutenant Christopher C. McMahon, JAGC, USN.

For Appellee: Lieutenant Jetti L. Gibson, JAGC, USN.

Decided 17 November 2016

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

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:

Officer and enlisted general court-martial members convicted the appellant, contrary to his pleas, of two specifications of attempted sexual abuse of a child in violation of Article 80, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 880. The members also convicted the appellant of a novel specification of enticement of a child in violation of Article 134, UCMJ, 10 U.S.C. § 934, but the military judge conditionally dismissed it before sentencing as an unreasonable multiplication of charges. The members sentenced the appellant to 18 months' confinement, reduction to pay grade E-1, total forfeiture of all pay and allowances, and a dishonorable discharge. The convening authority approved the sentence as adjudged.

While the appellant originally submitted this case for review without assignment of errors, his supplemental assignment of error avers that the military judge erred in the findings instructions provided to the court members. Without objection, the military judge instructed the members, in part, “[i]f based on your consideration of the evidence, you are firmly convinced that the accused is guilty of the crime charged, you *must* find him guilty.”¹

In *United States v. Rendon*, __ M.J. __, No. 201500408, 2016 CCA LEXIS 643, at *26 (N-M. Ct. Crim. App. 1 Nov 2016), we concluded the military judge did not err in using the same challenged instruction. In accordance with that holding, we summarily reject the appellant’s assignment of error. *United States v. Clifton*, 35 M.J. 79, 81-82 (C.M.A. 1992).

The findings and sentence are affirmed.

For the Court

R.H. TROIDL
Clerk of Court



¹Record at 250 (emphasis added) .