

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

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**No. 201600436**

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**UNITED STATES OF AMERICA**

Appellee

v.

**DOMINIQUE E. COCKFIELD**

Electrician's Mate Fireman Apprentice (E-2), U.S. Navy  
Appellant

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Appeal from the United States Navy-Marine Corps Trial Judiciary

Military Judge: Commander Heather D. Partridge, JAGC, USN.

Convening Authority: Commanding Officer, USS DWIGHT D.  
EISENHOWER (CVN 69).

Staff Judge Advocate's Recommendation: Commander Irve C.  
LeMoyne, JAGC, USN.

For Appellant: Captain Andrew R. House, JAGC, USN.

For Appellee: Commander James E. Carsten, JAGC, USN;  
Lieutenant Jetti L. Gibson, JAGC, USN.

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Decided 20 April 2017

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Before CAMPBELL, FULTON, and JONES, *Appellate Military Judges*

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**This opinion does not serve as binding precedent, but may be cited as persuasive authority under NMCCA Rule of Practice and Procedure 18.2.**

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PER CURIAM:

At a fully contested special court-martial, a military judge convicted the appellant of violating a lawful order, indecent exposure, and assault—violations of Articles 92, 120c, and 128, Uniform Code of Military Justice (UCMJ), 10 U.S.C. §§ 892, 920c, and 928—for intentionally exposing his genitalia in female berthing and ejaculating on a Sailor in her rack during his

roving patrol in the early morning hours of 14 April 2015. The military judge sentenced the appellant to one year of confinement and a bad-conduct discharge.

To avoid undue delay related to a deployment, the original convening authority (CA), Commanding Officer, USS DWIGHT D. EISENHOWER (CVN 69), asked the Commander, Navy Region Mid-Atlantic, to substitute as the CA for post-trial action purposes. Pursuant to that request, the substitute CA approved the sentence, as adjudged. However, the court-martial order (CMO) mistakenly indicates the substitute CA initially convened the court-martial, and it also lists a second specification under Charge II related to a different accused:

Specification 2 (Aggravated Sexual Contact-Victim 3): In that Chief Boatswain's Mate Ramon F. Bernal, U.S. Navy, Assault Craft Unit Four, on active duty, did, on board Joint Expeditionary Base Little Creek-Fort Story, Virginia, on or about 8 August 2014, commit sexual contact upon Ms. [P.K.H.], to wit: touching her arms, thigh, and breasts with the accused's hand; by unlawful force, to wit: pinning her against a cabinet.<sup>1</sup>

As his sole assignment of error, the appellant contends the extraneous specification renders the CMO non-compliant with RULE FOR COURT-MARTIAL 1114(c), MANUAL FOR COURTS-MARTIAL, UNITED STATES (2016 ed.), and requests that we order a corrected CMO.<sup>2</sup> The government concedes the issue and urges us to order corrective action in the supplemental CMO.

We review CMO inaccuracies under a harmless error standard. *United States v. Crumpley*, 49 M.J. 538, 539 (N-M. Ct. Crim. App. 1998). Having correctly identified the surplus specification, the appellant has not asserted, and we do not find, that this error materially prejudiced his substantial rights. However, the appellant is entitled to accurate court-martial records, *id.*, and we order the necessary corrective action. With those measures, we are convinced the findings and sentence are correct in law and fact and that no error materially prejudicial to the appellant's substantial rights occurred.<sup>3</sup> Arts. 59(a) and 66(c), UCMJ.

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<sup>1</sup> Special Court-Martial Order No. 3-16 of 16 Dec 2016 at 1.

<sup>2</sup> Despite assertions that the CMO "approves a finding of guilty for a specification not charged against the appellant nor considered by the trial court[.]" Appellant's Brief of 8 Feb 2017 at 3, it actually indicates no plea or finding for the extraneous offense.

<sup>3</sup> Another issue, not raised by the parties, is the CMO's indication that the substitute CA incorrectly believed "recent changes" to Article 60, UCMJ, did not limit

The findings and the sentence are affirmed. The supplemental CMO will restate the entire CMO, except for the second, extraneous specification erroneously included under Charge II, and will correctly indicate that this special court-martial was convened by the Commanding Officer, USS DWIGHT D. EISENHOWER.

For the Court

R.H. TROIDL  
Clerk of Court



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his powers to act on the findings and sentence, “because the case [did] not involve convictions under Article 120(a), 120(b), 120b, or 125 of the [UCMJ].” CMO at 3. Actually, those Article 60, UCMJ, changes removed the substitute CA’s ability to set aside the guilty findings or to disapprove, commute or suspend the adjudged sentence. But the appellant requested clemency only in the form of suspension of his automatic reduction in rank to pay grade E-1, and that request was lawfully granted. Thus, although the substitute CA’s incorrect belief was memorialized in the CMO, and will be included in the supplemental CMO, we find no “colorable showing of possible prejudice” to the appellant’s post-trial rights. *United States v. Wheelus*, 49 M.J. 283, 289 (C.A.A.F. 1998).