

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

No. 201500413

UNITED STATES OF AMERICA

Appellee

v.

WILLIAM G. MAC

Operations Specialist Third Class (E-4), U.S. Navy
Appellant

Appeal from the United States Navy-Marine Corps Trial Judiciary

Military Judge: Captain Paul C. LeBlanc, JAGC, USN.

Convening Authority: Commanding Officer, USS PINCKNEY
(DDG 91).

Staff Judge Advocate's Recommendation: Lieutenant Commander
Christopher P. Toscano, JAGC, USN.

For Appellant: Captain Daniel R. Douglas, USMC.

For Appellee: Lieutenant Commander Catheryne E. Pully, JAGC,
USN; Lieutenant Jetti L. Gibson, JAGC, USN.

Decided 16 February 2017

Before MARKS, GLASER-ALLEN, and JONES, *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:

A military judge sitting as a special court-martial convicted the appellant, pursuant to his pleas, of one specification of wrongful use of marijuana and one specification of assault consummated by a battery in violation of Articles 112a and 128, Uniform Code of Military Justice , 10 U.S.C. §§ 912a and 928.

The military judge sentenced the appellant to eight months' confinement, forfeiture of \$1,144.00 pay per month for eight months, reduction to pay grade E-1, and a bad-conduct discharge. The convening authority approved the adjudged sentence.

The appellant avers, and the government concedes, that the adjudged and approved forfeitures of pay exceed the maximum allowed by law at this special court-martial. The military judge calculated the adjudged forfeiture amount by mistakenly including the \$100 sea pay the appellant received at the time of trial. "The maximum authorized amount of a partial forfeiture shall be determined by using the basic pay . . . and, *if no confinement is adjudged*, any sea or hardship duty pay." RULE FOR COURTS-MARTIAL 1003(b)(2), MANUAL FOR COURTS-MARTIAL, UNITED STATES (2012 ed.) (emphasis added). As the adjudged sentence here included confinement, the military judge should not have included sea pay when calculating maximum forfeitures—two-thirds of basic pay, in whole dollars, at the appellant's reduced rank, or \$1,031.00 pay per month.

After taking corrective action, we conclude that the findings and sentence are correct in law and fact, and that no error materially prejudicial to the substantial rights of the appellant remains. Arts. 59(a) and 66(c), UCMJ.

The findings and only so much of the sentence as provides for confinement for eight months, reduction to pay grade E-1, forfeiture of \$1,031.00 pay per month for eight months, and a bad-conduct discharge are affirmed.

For the Court



R.H. TROIDL

Clerk of Court