

Thursday, January 15, 2015 (1000)

United States v. Sterling

Before Panel 2 of the Court: Senior Judge Fischer
Judge McDonald
Judge King

For Appellant: CAPT Tierney Carlos, JAGC, USN

For Appellee: LT Amy Freyermuth, JAGC, USN
LCDR Keith Lofland, JAGC, USN

At the appellant's trial, a panel of members with enlisted representation, sitting as a special court-martial, convicted the appellant, contrary to her pleas, of one specification of absence without leave, one specification of disrespect toward a superior commissioned officer, three specifications of insubordinate conduct toward warrant officer, noncommissioned officer or petty officer and one specification of false official statement, in violation of Articles 86, 89, 91 and 107 UCMJ, 10 U.S.C. § 886, 889, 891 and 907 (2012). The members sentenced the appellant to reduction to paygrade E-1, and a bad conduct discharge. The convening authority approved the sentence.

The two issues to be argued before this Court are as follows:

III

THE MILITARY JUDGE ERRED WHEN HE FOUND THE ORDER TO "TAKE DOWN THE SIGNS" WAS LAWFUL BECAUSE (1) THE ORDER BURDENED LCPL STERLING'S RIGHT TO EXERCISE HER RELIGION AND THE GOVERNMENT DID NOT DEMONSTRATE A COMPELLING GOVERNMENTAL INTEREST TO DO SO USING THE LEAST RESTRICTIVE MEANS; AND (2) THE ORDER HAD NO MILITARY PURPOSE

V

THE GOVERNMENT'S SENTENCING CASE VIOLATED R.C.M. 1001 BY INTRODUCING EVIDENCE THAT LCPL STERLING WAS RESPONSIBLE FOR THE MISCONDUCT AND POOR ATTITUDE OF

OTHER MARINES. THIS IMPROPER EVIDENCE PREJUDICIED
LCPL STERLING