

Thursday, 27 March 2014

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United States v. Dunton

Before Panel 2 of the Court

For Appellant: LT Jennifer Myers, JAGC, USN

For Appellee: LT Ian D. MacLean, JAGC, USN

A panel of members sitting as a special court-martial convicted the appellant, contrary to his pleas, of two specifications of wrongful sexual contact and one specification of assault consummated by a battery in violation of Articles 120 and 128, UCMJ, 10 U.S.C. §§ 920 and 928 (2012). The members sentenced the appellant to twelve months confinement, reduction to pay-grade E-1, forfeiture of \$994 pay per month for 12 months, and a bad-conduct discharge. The convening authority approved the sentence as adjudged and, except for the bad-conduct discharge, ordered it executed.

The issue to be argued before the Court is:

WHETHER THE MILITARY JUDGE ERRED BY PERMITTING TESTIMONY BY LCPL [T] THAT THE APPELLANT "PASSIONATELY KISSED" LCPL [T]'S ARM AND TESTIMONY BY LCPL [J] THAT THE APPELLANT MADE OTHER MALE MARINES "UNCOMFORTABLE" BY STANDING TOO CLOSE AND PUTTING HIS ARM AROUND THEIR SHOULDERS WHERE CHARACTER EVIDENCE IS INADMISSIBLE TO SHOW THAT AN ACCUSED HAD A PROPENSITY FOR HOMOSEXUAL BEHAVIOR?