

Thursday, 11 June 2015 (1000)

*United States v. Spurling*

Before the Court, *en banc*.

For Appellant: Maj John J. Stephens, USMC

For Appellee: LT Amy L. Freyermuth, JAGC, USN

A special court-martial, consisting of members with enlisted representation, convicted the appellant, contrary to his pleas, of one specification of making a false official statement, in violation of Article 107, Uniform Code of Military Justice. The members sentenced the appellant to reduction to pay grade E-1 and a bad-conduct discharge. The convening authority approved the sentence as adjudged but, as a matter of clemency, suspended the bad-conduct discharge for a period of twelve months.

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

- I. **WHEN A CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL IS PREMISED ON COUNSEL'S FAILURE TO MAKE A MOTION TO SUPPRESS EVIDENCE, AN APPELLANT MUST SHOW THAT THERE IS A REASONABLE PROBABILITY THAT SUCH A MOTION WOULD HAVE BEEN MERITORIOUS. UNITED STATES V. JAMESON, 65 M.J. 160, 163-64 (C.A.A.F. 2007). HOW SHOULD THIS COURT DEFINE "REASONABLE PROBABILITY?"**
  
- II. **DID THE APPELLANT SATISFY THAT STANDARD IN THIS CASE?**