

Thursday, 10 July 2014 (1000)

United States v. Nichlos

Before Panel 3 of the Court: Chief Judge Mitchell
Judge Jamison
Judge Fischer

For Appellant: Maj John J. Stephens, USMC

For Appellee: Capt Matthew M. Harris, USMC

A general court-martial, consisting of officers and enlisted members, convicted the appellant, contrary to his pleas, of two specifications of knowingly possessing child pornography, under 18 U.S.C. § 2256, in violation of Article 134, UCMJ. The Convening Authority approved the adjudged sentence of six months of confinement, reduction to paygrade E-1, and a bad-conduct discharge, and except for the bad-conduct discharge, ordered the sentence executed.

The issue to be argued before this Court is as follows:

- I. THERE IS NO EVIDENCE THE GOVERNMENT WOULD HAVE INEVITABLY DISCOVERED THE WESTERN DIGITAL HARD DRIVE LAWFULLY. THEREFORE, THE MILITARY JUDGE ERRED IN FAILING TO EXCLUDE IT FROM EVIDENCE WHEN A GOVERNMENT AGENT UNLAWFULLY SEIZED IT WITHOUT A WARRANT.