

Thursday, 12 July 2012

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United States v. Dalton

Panel Two: J.K. PERLAK, B.L. PAYTON-O'BRIEN, M.D. MODZELEWSKI,
Appellate Military Judges

For Appellant: LT Daniel LaPenta, JAGC, USN

For Appellee: Capt Samuel Moore, USMC

A general court-martial composed of members with enlisted representation convicted appellant, contrary to his pleas, of one specification of involuntary manslaughter, as a lesser included offense of murder, in violation of Article 119 UCMJ, 10 U.S.C. § 919. The members sentenced the appellant to five years confinement, reduction in rank to E-1, forfeiture of all pay and allowances, and a dishonorable discharge. The Convening Authority approved the sentence as adjudged and, except for the punitive discharge, ordered it executed.

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

- I. IN *UNITED STATES V. JONES*, CAAF RETURNED TO THE "ELEMENTS TEST" FOR DETERMINING THE EXISTENCE OF LESSER INCLUDED OFFENSES. UNDER THIS TEST, IS INVOLUNTARY MANSLAUGHTER A LESSER INCLUDED OFFENSE OF EITHER MURDER OR VOLUNTARY MANSLAUGHTER?