

Friday, 10 September 2010

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United States v. Hayes

A Military Judge sitting as a special court-martial convicted the appellant, in accordance with his pleas, of indecent acts by exceptions and substitutions, in violation of Article 134, UCMJ, 10 U.S.C. § 934 (2005). The appellant was sentenced to a bad-conduct discharge, confinement for one year and a reduction in paygrade to E-1. The convening authority approved the findings and sentence as adjudged and, except for the bad-conduct discharge, ordered it executed. The issues to be argued before the court are:

I. WHETHER THE MILITARY JUDGE'S COMMENTS ON THE RECORD AND DURING THE "BRIDGING THE GAP" DISCUSSIONS WITH COUNSEL REFLECT AN ACUTAL BIAS AGAINST THE APPELLANT'S SEXUAL ORIENTATION, RESULTING IN THE MILITARY JUDGE'S DISQUALIFICATION FROM PRESIDING OVER APPELLANT'S COURT-MARTIAL?

II. WHETHER THE MILITARY JUDGE'S COMMENTS ON THE RECORD AND DURING THE "BRIDGING THE GAP" DISCUSSIONS WITH COUNSEL CREATED AN APPEARANCE OF BIAS AGAINST THE APPELLANT'S SEXUAL ORIENTATION, RESULTING IN THE MILITARY JUDGE'S DISQUALIFICATION FROM PRESIDING OVER APPELLANT'S COURT-MARTIAL?