

Wednesday, 1 October 2014 (1000)

United States v. Hoffmann

**Before Panel 2 of the Court: Senior Judge Ward
Judge Fischer
Judge King**

For Appellant: LT Jessica Fickey, JAGC, USN

For Appellee: Capt Cory Carver, USMC

A panel of members, sitting as a general court-martial, convicted the appellant, contrary to his pleas, of attempted sodomy of a child, indecent liberties with a child, possession of child pornography, and enticement, in violation of Articles 80, 120, and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 880, 920, 934 (Supp. 2007). The members sentenced the appellant to reduction to pay grade E-1, total forfeiture of pay and allowances, confinement for 7 years, and a dishonorable discharge. The convening authority approved the adjudged sentence and, except for the dishonorable discharge, ordered it executed.

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

A SEARCH MUST BE SUPPORTED BY PROBABLE CAUSE. HERE, TO SUPPORT A SEARCH AUTHORIZATION FOR CHILD PORNOGRAPHY, THE SUPPORTING AFFIDAVIT ONLY ASSERTED (1) ALLEGATIONS OF A DIFFERENT CRIME, ATTEMPTED CHILD ENTICEMENT, AND (2) AN NCIS AGENT'S OPINION THERE IS INTUITIVE RELATIONSHIP BETWEEN THE TWO OFFENSES. DID THE MILITARY JUDGE ABUSE HIS DISCRETION BY FAILING TO SUPPRESS THE EVIDENCE FOR LACK OF PROBABLE CAUSE?