

Wednesday, 10 December 2014 (1000)

United States v. Oakley

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

For Appellant: LT Jennifer Myers, JAGC, USN

**For Appellee: Capt Cory Carver, USMC
LCDR Keith Lofland, JAGC, USN**

At the appellant's retrial, a panel of members with enlisted representation, sitting as a general court-martial, convicted the appellant, contrary to his pleas, of one specification of aggravated sexual assault and one specification of committing an indecent act, in violation of Article 120, UCMJ, 10 U.S.C. § 920 (2008). The members sentenced the appellant to five years' confinement, total forfeiture of pay and allowances, reduction to paygrade E-1, and a dishonorable discharge. Due to the limitations required by the appellant's sentence at his previous court-martial, the convening authority approved only so much of the sentence as provided for confinement for three months, total forfeiture of pay and allowances, reduction to paygrade E-1, and a bad-conduct discharge.

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

**DID THE MILITARY JUDGE'S FINDINGS OF NOT GUILTY TO THE WORDS "ON
DIVERS OCCASIONS" IN THE FIRST TRIAL CREATE AN AMBIGUOUS VERDICT
AND A DOUBLE JEOPARDY VIOLATION THAT PRECLUDES THIS COURT'S
REVIEW OF SPECIFICATIONS 1 AND 2 UNDER ARTICLE 66, UCMJ?**