

Thursday, 5 November 2015 (1000)

*United States v. Newlan*

Before the Court, Panel 2.

For Appellant: LT David W. Warning, JAGC, USN

For Appellee: LT Jetti L. Gibson, JAGC, USN

An officer and enlisted members panel, sitting as a general court-martial, convicted the Appellant, contrary to his pleas, of one specification of sexual assault and one specification of adultery in violation of Articles 120 and 134, UCMJ, 10 USC §§ 920, 934 (2012). The members sentenced the Appellant to reduction to pay grade E-1, confinement for one year, and a bad-conduct discharge. The convening authority approved the sentence as adjudged, and, except for the bad-conduct discharge, order the sentence executed.

The issues to be argued before this Court are as follows:

I. A MILITARY JUDGE HAS AN OBLIGATION TO PROVIDE AN ACCURATE, COMPLETE AND INTELLIGIBLE STATEMENT OF THE LAW WHEN INSTRUCTING MEMBERS. DID THE MILITARY JUDGE FAIL TO DO SO BY PROVIDING THE MEMBERS WITH THE DEFINITION OF "IMPAIRMENT" FOUND IN ARTICLE 111, UCMJ AND BY FAILING TO FURTHER INSTRUCT THE MEMBERS ON THE LEGAL INTERPLAY BETWEEN INTOXICATION AND LCPL H'S ABILITY TO CONSENT? IF SO, WHAT, IF ANY, PREJUDICE TO THE APPELLANT RESULTED?

II. A MEMBER ON THE APPELLANT'S PANEL MADE A POST-TRIAL STATEMENT THAT MAY HAVE INDICATED HE ASSUMED THE APPELLANT WAS GUILTY PRIOR TO HEARING EVIDENCE. WAS THE APPELLANT'S PANEL TAINTED BY ACTUAL OR IMPLIED BIAS?