

**UNITED STATES NAVY-MARINE CORPS  
COURT OF CRIMINAL APPEALS  
WASHINGTON, D.C.**

**Before  
F.D. MITCHELL, J.A. MAKSYM, R.E. BEAL  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**RAJIV S. BROWN  
LANCE CORPORAL (E-3), U.S. MARINE CORPS**

**NMCCA 200900315  
GENERAL COURT-MARTIAL**

**Sentence Adjudged:** 7 April 2009.

**Military Judge:** Maj Glen Hines, USMC.

**Convening Authority:** Commander, Marine Corps Base, Camp  
Lejuene, NC.

**Staff Judge Advocate's Recommendation:** LtCol K.M. McDonald,  
USMC.

**For Appellant:** LT Edward George, JAGC, USN.

**For Appellee:** Maj Elizabeth A. Harvey, USMC.

**29 October 2009**

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**OPINION OF THE COURT**  
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**AS AN UNPUBLISHED DECISION, THIS OPINION DOES NOT SERVE AS PRECEDENT.**

**PER CURIAM:**

A military judge sitting as a general court martial convicted the appellant, pursuant to his pleas, of making a false official statement, sodomy, assault with means likely to produce grievous bodily harm, adultery, and breaking restriction, in violation of Articles 107, 120, 128, and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 907, 920, 928, and 934. The appellant was sentenced to a dishonorable discharge, confinement for 55 months, forfeiture of all pay and allowances, and

reduction to pay grade E-1. The convening authority approved the sentence as adjudged and, except for the dishonorable discharge, ordered it executed.

The appellant's sole assignment of error avers that his sentence is inappropriately severe and requests that this court affirm only that much of the sentence as provides for confinement for 24 months and a bad-conduct discharge.

"Sentence appropriateness involves the judicial function of assuring that justice is done and that the accused gets what he deserves." *Unites States v. Healy*, 26 M.J. 394, 395 (C.M.A. 1988). This requires "'individualized consideration' of the particular accused 'on the basis of the nature and seriousness of the offense and character of the offender.'" *United States v. Snelling*, 14 M.J. 267, 268, 14 M.J. 267, 268 (C.M.A. 1982) (quoting *United States v. Mamaluy*, 27 C.M.R. 176, 180-81 (C.M.A. 1959)).

The appellant was convicted of, *inter alia*, a variety of sex offenses including committing oral and anal sodomy, and assault with a means likely to produce grievous bodily harm by having unprotected sexual intercourse without disclosing to the victim that he had tested positive for the Human Immunodeficiency Virus. Each of these sex offenses involved a 14-year-old girl that the appellant had met at the local mall. The appellant seems to suggest that because the victim was sexually active with other older males, this somehow reduces his culpability in this case. We find this argument unpersuasive. After reviewing the entire record, we find that the sentence is appropriate for this offender and his offenses. *United States v. Baier*, 60 M.J. 382, 384-85 (C.A.A.F. 2005); *Healy*, 26 M.J. at 395-96; *Snelling*, 14 M.J. at 268.

We therefore conclude that the findings and sentence are correct in law and fact and that no error was committed that was materially prejudicial to the substantial rights of the appellant. Arts. 59(a) and 66(c), UCMJ. Accordingly, we affirm the findings and the sentence.

For the Court

R.H. TROIDL  
Clerk of Court