

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

**Before  
R.E. VINCENT, E.C. PRICE, J.R. PERLAK  
Appellate Military Judges**

**UNITED STATES OF AMERICA**

**v.**

**SHERMANISA F. WARDSWORTH  
GAS TURBINE SYSTEMS TECHNICIAN FIREMAN (E-3), U.S. NAVY**

**NMCCA 200900514  
SPECIAL COURT-MARTIAL**

**Sentence Adjudged:** 21 July 2009.

**Military Judge:** CAPT Moira Modzelewski, JAGC, USN.

**Convening Authority:** Commander, Destroyer Class Squadron,  
Norfolk, VA.

**Staff Judge Advocate's Recommendation:** LT M.R. Hamel, JAGC,  
USN.

**For Appellant:** CAPT Diane Karr, JAGC, USN.

**For Appellee:** Mr. Brian Keller, Esq.

**17 December 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**AS AN UNPUBLISHED DECISION, THIS OPINION DOES NOT SERVE AS PRECEDENT.**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 special court-martial convicted the appellant, pursuant to her pleas, of unauthorized absence, escape from custody, larceny of military property, and obstructing justice, in violation of Articles 86, 95, 121 and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 886, 895, 921, and 934. The convening authority (CA) approved the appellant's sentence of confinement for 90 days, forfeiture of \$900.00 pay per month for three months, reduction to pay grade E-1, and a bad-conduct discharge. Pursuant to a pretrial agreement, the CA suspended all confinement in excess of 60 days for the period of confinement.

This case was submitted without specific assignment of error.<sup>1</sup> After conducting our thorough review of the record of trial and allied papers, we are convinced that the findings and sentence are correct in law and fact and that no error materially prejudicial to the substantial rights of the appellant occurred. Arts. 59(a) and 66(c), UCMJ.

The promulgating order, see RULE FOR COURTS-MARTIAL 1114, MANUAL FOR COURTS-MARTIAL, UNITED STATES (2008 ed.), contains error. Because service members are entitled to records that correctly reflect the results of court-martial proceedings, see *United States v. Crumpley*, 49 M.J. 538, 539 (N.M.Ct.Crim.App. 1998), we shall order the necessary corrective action.

The promulgating order fails to set out two charges which were referred to and disposed of at this court-martial. See R.C.M. 1114c(1). Charge I, Specification 1, alleging a five day period of unauthorized absence, in violation of Article 86, UCMJ, and Charge III, alleging a single specification of false official statement in violation of Article 107, UCMJ, both of which the appellant pleaded not guilty to. Record at 14. These charges were withdrawn by the Government and dismissed with prejudice by the CA per the pretrial agreement. *Id.* at 91; Appellate Exhibit VII at 5.

Also, to the extent that the wording of the CA's action purports to order the bad-conduct discharge executed, it is a legal nullity that does not require correction. *United States v. McGee*, 30 M.J. 1086, 1088 (N.M.C.M.R. 1989); *United States v. Caver*, 41 M.J. 556, (N.M.Ct.Crim. App. 1994).

The findings and the approved sentence are affirmed. The supplemental court-martial order shall correctly reflect the charges before this court-martial, to include Specification 1 under Charge I and Charge III.

For the Court

R.H. TROIDL  
Clerk of Court

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<sup>1</sup> The instant appeal included three footnotes containing the appellate defense counsel's assessment of errors and conclusions that they are non-prejudicial. Procedurally, these issues lend themselves to summary assignments of error for the court's review.