

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

**Before
L.T. BOOKER, J.K. CARBERRY, J.E. STOLASZ
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**KURT E. ANTONIO
CULINARY SPECIALIST SEAMAN (E-3), U.S. NAVY**

**NMCCA 201000622
GENERAL COURT-MARTIAL**

Sentence Adjudged: 26 August 2010.

Military Judge: CAPT Moira Modzelewski, JAGC, USN.

Convening Authority: Commander, Navy Region Mid-Atlantic,
Norfolk, VA.

Staff Judge Advocate's Recommendation: CDR F.D. Hutchison,
JAGC, USN.

For Appellant: CAPT Paul Jones, JAGC, USN.

For Appellee: CDR Brendan Curran, JAGC, USN; Capt Mark V.
Ballfantz, USMC.

15 March 2011

OPINION OF THE COURT

**IN ACCORDANCE WITH RULE 18.2, NMCCA RULES OF PRACTICE AND PROCEDURE, 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 two specifications of wrongful sexual contact and assault consummated by a battery in violation of Articles 120 and 128, Uniform Code of Military Justice, 10 U.S.C. §§ 920 and 928. The appellant was sentenced to 10 months confinement and a bad-conduct discharge. The convening authority (CA) approved the sentence but, pursuant to a pretrial agreement, suspended all confinement in excess of 9 months for the period of confinement served plus six months

thereafter. As a matter of clemency, the convening authority waived automatic forfeitures for 6 months.

The appellant's sole assignment of error asserts that the convening authority's action erroneously recites the text of Specification 2 of the additional charge, and warrants corrective action. We disagree, and find that the general court-martial order contains an adequate summary of the charges and specifications as required under the provisions of RULE FOR COURTS-MARTIAL 1114(c)(1), MANUAL FOR COURTS-MARTIAL, UNITED STATES (2008 ed.). There being no error materially prejudicial to the substantial rights of the appellant, we affirm the findings and sentence as approved by the convening authority.

For the Court,

R.H. TROIDL
Clerk of Court