

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

**Before
C.L. REISMEIER, F.D. MITCHELL, R.E. BEAL
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**JASON T. MAJOR
STAFF SERGEANT (E-6), U.S. MARINE CORPS**

**NMCCA 201000494
GENERAL COURT-MARTIAL**

Sentence Adjudged: 28 June 2010.

Military Judge: CAPT James Redford, JAGC, USN.

Convening Authority: Commanding Officer, Marine Corps
Recruit Depot/Western Recruiting Region, San Diego, CA.

Staff Judge Advocate's Recommendation: LtCol S.M. Sullivan,
USMC.

For Appellant: Capt John H. Bennett, JAGC, USN.

For Appellee: CDR K.D. Hinson, JAGC, USN; Capt M.V.
Balantz, USMC.

15 February 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 special court-martial convicted the appellant, consistent with his pleas, of three specifications of committing indecent acts, in violation of Article 120, Uniform Code of Military Justice, 10 U.S.C. § 920. The appellant was sentenced to confinement for five months, reduction to the lowest enlisted pay grade, and a bad-conduct discharge. The convening authority approved the sentence as adjudged.

In his sole assignment of error, the appellant avers that his sentence is inappropriately severe. We have carefully

reviewed the record of trial, the appellant's assignment of error, and the Government's response. We conclude that the findings and the sentence are correct in law and fact and that no error materially prejudicial to the substantial rights of the appellant was committed.¹ Arts. 59(a) and 66(c), UCMJ.

Sentence Severity

"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 (C.M.A. 1982) (quoting *United States v. Mamaluy*, 27 C.M.R. 176, 180-81 (C.M.A. 1959)). After reviewing the entire record, we find the sentence 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.

Accordingly, we affirm the findings of guilty and the sentence as approved by the convening authority.

For the Court

R.H. TROIDL
Clerk of Court

¹ Although not assigned as error, we note that the staff judge advocate's recommendation (SJAR) says that the appellant was convicted of ". . . three specifications in violation of Article 120, rape, sexual assault, and other sexual misconduct". SJAR of 17 Aug 2010 at 1. It is unclear as to whether the staff judge advocate was advising the convening authority that the appellant had been found guilty of rape, sexual assault, and other sexual misconduct, or was advising that the appellant was found guilty of violating Article 120 which prohibits the aforementioned misconduct. Appended to the SJAR as an enclosure is the results of trial which correctly details the misconduct of which the appellant was found guilty. Additionally, the special court-martial order indicates that the results of trial was considered, and accurately reflects the charge and specifications of which the appellant was found guilty. The appellant has not indicated that he was prejudiced by this ambiguous SJAR and we find this error to be harmless.