

**UNITED STATES NAVY–MARINE CORPS
COURT OF CRIMINAL APPEALS**

No. 201700366

UNITED STATES OF AMERICA
Appellee

v.

OSCAR HERNANDEZ

Aviation Boatswain's Mate (Aircraft Handling) Third Class (E-4)
United States Navy
Appellant

Appeal from the United States Navy-Marine Corps Trial Judiciary

Military Judge: Commander Jonathan T. Stephens, JAGC, USN.
Convening Authority: Commander, Navy Region Southwest, San
Diego, CA.

Staff Judge Advocate's Recommendation: Captain Donald C. King,
JAGC, USN.

For Appellant: Lieutenant Commander Derek C. Hampton, JAGC,
USN.

For Appellee: Lieutenant Commander Ian MacLean, JAGC, USN;
Captain Sean M. Monks, USMC.

Decided 5 June 2018

Before HUTCHISON, FULTON, and SAYEGH, *Appellate Military Judges*

This opinion does not serve as binding precedent but may be cited as persuasive authority under NMCCA Rule of Practice and Procedure 18.2.

PER CURIAM:

Pursuant to his pleas, the appellant was convicted by a military judge sitting as a general court-martial of one specification of attempted abusive sexual contact and four specifications of abusive sexual contact in violation of Articles 80 and 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. §§ 880 and 920. The military judge sentenced the appellant to 14 months'

confinement, reduction to pay grade E-1, total forfeitures, and a bad-conduct discharge. The convening authority (CA) approved the sentence as adjudged and, except for the bad-conduct discharge, ordered it executed.

In his sole assignment of error, the appellant asserts that the promulgating order does not accurately reflect the appellant's plea of guilty to the sole specification of Charge I or his plea of guilty to Charge III. We agree. Although the appellant has not identified or asserted any prejudice, he is entitled to an accurate official record of his proceedings and we will order corrective action in our decretal paragraph. *See United States v. Crumpley*, 49 M.J. 538, 539 (N-M. Ct. Crim. App. 1998). Following our corrective action, we conclude that the findings and sentence are correct in law and fact, and no error materially prejudicial to the substantial rights of the appellant remains. Arts. 59(a) and 66(c), UCMJ.

The findings and sentence are affirmed. The supplemental court-martial order shall reflect that the appellant pleaded guilty to the sole specification of Charge I and to Charge III.

For the Court

R.H. TROIDL
Clerk of Court

