

# United States Navy–Marine Corps Court of Criminal Appeals

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UNITED STATES

Appellee

v.

**Dominique L. NOEL**

Sergeant (E-5), U.S. Marine Corps

Appellant

**No. 201800270**

Appeal from the United States Navy-Marine Corps Trial Judiciary.

Decided: 8 February 2019.

Military Judge:

Lieutenant Colonel Leon J. Francis, USMC.

Sentence adjudged 8 May 2018 by a general court-martial convened at Marine Corps Base Hawaii, Kaneohe Bay, Hawaii, consisting of a military judge sitting alone. Sentence approved by the convening authority: reduction to E-1, forfeiture of all pay and allowances, confinement for 2 years,<sup>1</sup> and a bad-conduct discharge.

For Appellant:

*Captain Bree A. Ermentrout, JAGC, USN.*

For Appellee:

*Brian K. Keller, Esq.*

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**This opinion does not serve as binding precedent under  
NMCCA Rule of Appellate Procedure 30.2(a).**

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<sup>1</sup> The Convening Authority suspended confinement in excess of 12 months pursuant to a pretrial agreement.

Before HUTCHISON, TANG, and RUSSELL  
*Appellate Military Judges.*

PER CURIAM:

After careful consideration of the record, submitted without assignment of error, we have determined that the approved findings and sentence are correct in law and fact and that no error materially prejudicial to Appellant's substantial rights occurred. Articles 59(a) and 66(c), UCMJ, 10 U.S.C. §§ 859(a), 866(c).

However, we note that the court-martial order (CMO) does not accurately reflect the pleas and findings, or other dispositions, for each charge and specification on which the appellant was arraigned, as required by RULE FOR COURTS-MARTIAL 1114(c)(1), MANUAL FOR COURTS-MARTIAL, UNITED STATES (2016 ed.). Although we find no prejudice from this scrivener's error, the appellant is entitled to have court-martial records that correctly reflect the content of his proceeding. *United States v. Crumpley*, 49 M.J. 538, 539 (N-M. Ct. Crim. App. 1998). Accordingly, the convening authority shall issue a supplemental CMO reflecting: (1) that the appellant pleaded Not Guilty to Specifications 1 and 2 of Charge I, Specification 2 of Charge II, Specification 3 of Charge IV, and the sole Specification of Charge V; and (2) that the military judge granted the government's motion to withdraw and dismiss without prejudice the offenses to which the appellant pleaded Not Guilty, to ripen into prejudice upon completion of appellate review.

The findings and sentence as approved by the convening authority are **AFFIRMED**.



FOR THE COURT:

A handwritten signature in blue ink that reads "Rodger A. Drew, Jr." with a stylized flourish at the end.

RODGER A. DREW, JR.  
Clerk of Court