

**United States Navy–Marine Corps
Court of Criminal Appeals**

UNITED STATES
Appellee

v.

Austin S. GREENE
Machinist Mate Fireman Recruit (E-1), U.S. Navy
Appellant

No. 201800285

Appeal from the United States Navy-Marine Corps Trial Judiciary

Decided: 25 January 2019

Military Judge: Commander Stephen Reyes, JAGC, USN

Approved Sentence: Confinement for six months, and a bad-conduct discharge. Sentence adjudged 8 June 2018 by a special court-martial convened at Fleet Activity Yokosuka, Japan, consisting of a military judge sitting alone.

For Appellant: Commander R. D. Evans, Jr., JAGC, USN.

For Appellee: Brian K. Keller, Esq.

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

Before HUTCHISON, TANG, and LAWRENCE
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 that Specification 1 of Charge I alleged an attempted sexual assault of a child vice an attempted sexual *abuse* of a child. Although we find no prejudice from this scrivener's error regarding a specification that was withdrawn and dismissed, the appellant is entitled to have court-martial records that correctly reflect the results of his proceeding.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 correctly reflecting the offense alleged in Specification 1 of Charge I.

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