

United States Navy–Marine Corps Court of Criminal Appeals

UNITED STATES

Appellee

v.

Eric N. MARTINEZ

Aviation Electronics Technician Airman (E-3), U.S. Navy
Appellant

No. 201800304

Appeal from the United States Navy-Marine Corps Trial Judiciary

Decided: 14 February 2019.

Military Judge:

Captain Ann K. Minami, JAGC, USN

Sentence adjudged 19 July 2018 by a special court-martial convened at Naval Base Kitsap, Bremerton, Washington, consisting of a military judge sitting alone. Sentence approved by convening authority: reduction to E-1, confinement for 10 months,¹ and a bad conduct discharge.

For Appellant:

Major Matthew A. Blackwood, USMCR.

For Appellee:

Brian K. Keller, Esq.

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

¹ The Convening Authority suspended confinement in excess of 9 months pursuant to a pretrial agreement.

Before FULTON, HITESMAN, and GERDING,
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 and 66, UCMJ, 10 U.S.C. §§ 859, 866. However, we note that the court-martial order (CMO) does not accurately reflect the appellant's pleas and the findings as to Specification 5 of Charge III. 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 that the appellant's plea to Specification 5 of Charge III was:

Guilty, except the words "on divers occasions" and "between September and December 2017," substituting therefor, "in December 2017"; of the excepted words, Not Guilty; of the substituted words, Guilty.

The supplemental CMO shall also reflect that the appellant was found guilty of Specification 5 of Charge III consistent with his plea, as excepted and substituted.

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