

United States Navy-Marine Corps Court of Criminal Appeals

UNITED STATES

Appellee

v.

Azariah J. PIERCE

Staff Sergeant (E-6), U.S. Marine Corps

Appellant

No. 201900002

Appeal from the United States Navy-Marine Corps Trial Judiciary

Decided: 9 April 2019.

Military Judge:

Captain Warren A. Record, JAGC, USN.

Sentence adjudged 24 August 2018 by a special court-martial convened at Marine Corps Recruit Depot Parris Island, South Carolina, consisting of a military judge sitting alone. Sentence approved by convening authority: reduction to E-3, confinement for 60 days, and a bad conduct discharge.¹

For Appellant:

Captain Bree A. Ermentrout, JAGC, USN.

For Appellee:

Brian K. Keller, Esq.

¹ Pursuant to a pretrial agreement, the Convening Authority suspended the bad conduct discharge until such time as the appellant could be administratively discharged.

**This opinion does not serve as binding precedent, but
may be cited as persuasive authority under
NMCCA Rule of Appellate Procedure 30.2.**

Before HUTCHISON, TANG, 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. 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 supplemental CMO shall reflect that the appellant pleaded Not Guilty to the Specification of Charge IV.

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



FOR THE COURT:

Rodger A. Drew, Jr.
RODGER A. DREW, JR.
Clerk of Court