

*This opinion is subject to administrative correction before final disposition.*

United States Navy - Marine Corps  
Court of Criminal Appeals

Before  
FULTON,<sup>1</sup> HITESMAN, and GERDING,  
Appellate Military Judges

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**UNITED STATES**  
Appellee

v.

**Andrew W. MILLER**  
Machinist Mate Nuclear Power Second Class (E-5), U.S. Navy  
Appellant

**No. 201900093**

Decided: 29 August 2019.

Appeal from the United States Navy-Marine Corps Trial Judiciary.  
Military Judge: Captain Stephen Reyes, JAGC, USN. Sentence ad-  
judged 13 December 2018 by a special court-martial convened at Fleet  
Activity Yokosuka, Japan, consisting of a military judge sitting alone.  
Sentence approved by the convening authority: reduction to E-1, con-  
finement for 120 days, and a bad-conduct discharge<sup>2</sup>.

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> Except for administrative processing, this decision was finalized before Senior Judge Fulton detached from the Court.

<sup>2</sup> The Convening Authority suspended confinement in excess of 30 days and the bad-conduct discharge pursuant to a pretrial agreement.

PER CURIAM:

After careful consideration of the record, and appellant's assertion of error in the court-martial order (CMO), 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 agree with appellant that the "Action" section of the CMO does not accurately reflect that the suspended bad-conduct discharge is to be remitted. 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 suspended bad-conduct discharge is to be remitted 12 months from the date of the CMO, unless sooner vacated.

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



FOR THE COURT:

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

RODGER A. DREW, JR.  
Clerk of Court