

This opinion is subject to administrative correction before final disposition.

United States Navy - Marine Corps
Court of Criminal Appeals

Before
TANG, J. STEPHENS, and ATTANASIO
Appellate Military Judges

UNITED STATES
Appellee

v.

German A. CHAVEZ
Sergeant (E-5), U.S. Marine Corps
Appellant

No. 201900147

Decided: 29 August 2019.

Appeal from the United States Navy-Marine Corps Trial Judiciary. Military Judge: Major John L. Ferriter, USMC; Lieutenant Colonel Jeffrey V. Munoz, USMC. Sentence adjudged 27 February 2019 by a special court-martial convened at Marine Corps Base Camp Pendleton, CA, consisting of a military judge sitting alone. Sentence approved by convening authority: reduction to E-1, confinement for 89 days, and a bad-conduct discharge¹.

For Appellant: Captain Jeremiah J. Sullivan, III, 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).**

¹ The Convening Authority suspended confinement in excess of 6 months pursuant to a pretrial agreement.

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 "Action" section of the court-martial order (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 6 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