

United States Navy - Marine Corps
Court of Criminal Appeals

UNITED STATES
Appellee

v.

Thomas E. MADER
Sergeant (E-5)
U. S. Marine Corps
Appellant

NMCCA No. 201800276

Panel 2

ORDER

*Remanding Case for
New Post-Trial Processing*

Appellant was convicted by general court-martial, contrary to his pleas, of disobeying general orders and assault consummated by battery, in violation of Articles 92 and 128, Uniform Code of Military Justice, 10 U.S.C. §§ 892 and 928. He was sentenced on 4 May 2018 to reduction to pay-grade E-1, forfeiture of all pay and allowances, confinement for 190 days, and a bad-conduct discharge.

On 12 May 2018, Appellant submitted to the staff judge advocate clemency matters to be considered by the convening authority. On 31 July 2018, the staff judge advocate sent his recommendation to the convening authority omitting the matters submitted by Appellant and erroneously stating that they would be provided when received. On the same date, Appellant's trial defense counsel receipted for the staff judge advocate's recommendation and noted that the clemency matters had been previously submitted. On 24 August 2018, apparently without ever having received or considered Appellant's clemency matters, the convening authority took action on the case, approving the findings and sentence as adjudged.

Accordingly, it is, by the Court, this 19th day of August 2019,

ORDERED:

1. That the convening authority's action is hereby set aside.
2. That the record is returned to the Judge Advocate General for remand to an appropriate convening authority for preparation of a new staff judge advocate's recommendation and new convening authority's action in compliance with RULES FOR COURTS-MARTIAL 1106-1107, MANUAL FOR COURTS-MARTIAL, UNITED STATES (2016 ed.). Thereafter the record will be returned to the Court for completion of appellate review.



FOR THE COURT:

Rodger A. Drew, Jr.

RODGER A. DREW, JR.
Clerk of Court

Copy to:
NMCCA (51.2)
45 (LCDR Larson)
46 (LT Ceder, Capt Farrell)
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