

This opinion is subject to administrative correction before final disposition.

United States Navy - Marine Corps
Court of Criminal Appeals

Before
KING, GASTON, and GEIS
Appellate Military Judges

UNITED STATES
Appellee

v.

Jacob T. BELK
Corporal (E-4), U.S. Marine Corps
Appellant

No. 201900294

Decided: 25 June 2020

Appeal from the United States Navy-Marine Corps Trial Judiciary

Military Judges:
Glenn Hines (arraignment)
Kyle Phillips (trial)

Sentence adjudged 10 July 2019 by a general court-martial convened at Marine Corps Base Camp LeJeune, North Carolina, consisting of a military judge sitting alone. Sentence in the Entry of Judgment: reduction to E-1, confinement for 24 months,¹ and a dishonorable discharge.

¹ The convening authority suspended all confinement in excess of 18 months pursuant to a pretrial agreement.

United States v. Belk, NMCCA No. 201900294
Opinion of the Court

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).**

PER CURIAM:

After careful consideration of the record, submitted without assignment of error, we have determined that the 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, Uniform Code of Military Justice, 10 U.S.C. §§ 859, 866.

However, we note that the Entry of Judgment does not accurately reflect the disposition of the specifications of the Charge. The Entry of Judgment reflects that Appellant pleaded guilty, in Specification 2 of the Charge, to Attempted Sexual Abuse of a Child under Article 80, UCMJ, when he actually pleaded and was found guilty of Attempted Sexual *Assault* of a Child under Article 80. The Statement of Trial Results accurately reflects this plea, and we find no evidence of modification by any post-trial action by the convening authority or any ruling, order, or other determination by the military judge. *See* Article 60c(a)(1)(B), UCMJ. Hence, we conclude the omission is a scrivener's error and ultra vires. We find no prejudice in this clerical error, and Appellant asserts none. In accordance with this Court's authority under Rule for Court-Martial 1111(c)(2), Manual for Courts-Martial, United States (2019 ed.), we modify the Entry of Judgment to correct this clerical error and direct that it be included in the record.

The findings and sentence as modified are **AFFIRMED**.



FOR THE COURT:


RODGER A. DREW, JR.
Clerk of Court

United States Navy - Marine Corps
Court of Criminal Appeals

UNITED STATES

v.

Jacob T. BELK
Corporal (E-4)
U.S. Marine Corps

Accused

NMCCA NO. 201900294

ENTRY
OF
JUDGMENT

As Modified on Appeal

25 June 2020

On 29 May and 10 July 2019, the Accused was tried at Marine Corps Base Camp LeJeune, North Carolina, by a general court-martial consisting of a military judge sitting alone. Military Judges Glenn Hines and Kyle Phillips presided.

FINDINGS

The following are the Accused's pleas and the Court's findings to all offenses the convening authority referred to trial:

Charge: Violation of Article 80, Uniform Code of Military Justice, 10 U.S.C. § 880.

Plea: Guilty.

Finding: Guilty.

Specification 1: Attempted Sexual Abuse of a Child by Indecent Communication on or about 26 June 2018.

Plea: Guilty.

Finding: Guilty.

Specification 2: Attempted Sexual Assault of a Child on or about 28 June 2018.

Plea: Guilty.

Finding: Guilty.

SENTENCE

On 10 July 2019, the military judge sentenced the Accused to the following (as modified, if at all, during any post-trial action):

Reduction to pay grade E-1.

Confinement for 24 months.

A dishonorable discharge.

The convening authority suspended confinement in excess of 18 months.



FOR THE COURT:

A handwritten signature in blue ink, which appears to read "Rodger A. Drew, Jr.", is written over the typed name.

RODGER A. DREW, JR.
Clerk of Court