

This opinion is subject to administrative correction before final disposition.

United States Navy - Marine Corps
Court of Criminal Appeals

Before
TANG, LAWRENCE, and GERRITY
Appellate Military Judges

UNITED STATES
Appellee

v.

Gerald A. HOPPER
Staff Sergeant (E-6), U.S. Marine Corps
Appellant

No. 201900335

Decided: 30 April 2020

Appeal from the United States Navy-Marine Corps Trial Judiciary

Military Judges:
Keaton H. Harrell (arraignment)
K. Scott Woodard (trial)

Sentence adjudged 16 August 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 18 months, and a bad-conduct discharge.¹

For Appellant:
Lieutenant Commander W. Scott Stoebner, JAGC, USN

¹ The Convening Authority suspended confinement in excess of 9 months for 12 months from the date of the Convening Authority's Action pursuant to a pretrial agreement.

United States v. Hopper, NMCCA No. 201900335
Opinion of the Court

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 approved findings and sentence are correct in law and fact and that no error materially prejudicial to Appellant's substantial rights occurred. Articles 59, 66, Uniform Code of Military Justice, 10 U.S.C. §§ 859, 866.

However, we note that the Entry of Judgment is incomplete, as Block 34 (Sentence adjudged, accounting for any modifications by reason of any post-trial action by the convening authority) only lists the adjudged sentence and does not address the suspension of all confinement over 9 months for a period of 12 months from the date of the Convening Authority's Action. However, this suspension was reflected in Block 28 of the Post-Trial Action (Convening Authority's Action) and Block 35 of the Entry of Judgment (Deferment of Waiver and Forfeitures). Although we find no prejudice from this error, 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). In accordance with this Court's authority under Rule for Courts-Martial 1111(c)(2), we modify the Entry of Judgment and direct that it be included in the record.

The findings and sentence are **AFFIRMED**.



FOR THE COURT:

A handwritten signature in blue ink, appearing to read "Rodger A. Drew, Jr.", is written over the printed name.

RODGER A. DREW, JR.
Clerk of Court

United States Navy - Marine Corps
Court of Criminal Appeals

UNITED STATES

v.

Gerald A. HOPPER
Staff Sergeant (E-6)
U.S. Marine Corps

Accused

NMCCA NO. 201900335

ENTRY
OF
JUDGMENT

As Modified on Appeal

30 April 2020

On 31 May 2019 and 16 August 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 Keaton H. Harrell and K. Scott Woodard, 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: Attempted Sexual Abuse of a Child by Indecent
Communication between on or about 26 June 2018 and
on or about 3 July 2018.

Plea: Guilty, except for certain words.

Finding: Guilty of the Specification as excepted; the excepted words were withdrawn and dismissed without prejudice, to ripen into prejudice upon completion of appellate review.

SENTENCE

On 16 August 2019, a military judge sentenced the Accused to the following:

Reduction to pay grade E-1.

Confinement for 18 months.

A bad-conduct discharge.

The convening authority suspended confinement in excess of 9 months for a period of 12 months from 26 November 2019.



FOR THE COURT:

A handwritten signature in blue ink, reading "Rodger A. Drew, Jr.", with a stylized flourish at the end.

RODGER A. DREW, JR.
Clerk of Court