

This opinion is subject to administrative correction before final disposition.

United States Navy - Marine Corps
Court of Criminal Appeals

Before
GASTON, HOUTZ, and BONNER
Appellate Military Judges

UNITED STATES
Appellee

v.

Sheldon R. MARIANO
Lance Corporal (E-3), U.S. Marine Corps
Appellant

No. 202000175

Decided: 30 April 2021

Appeal from the United States Navy-Marine Corps Trial Judiciary

Military Judge:
Wilbur Lee

Sentence adjudged 13 May 2020 by a general court-martial convened at Joint Base Pearl Harbor-Hickam, Hawaii, consisting of a military judge sitting alone. Sentence in the Entry of Judgment: reduction to E-1, forfeiture of all pay and allowances, confinement for 24 months, and a dishonorable discharge.

For Appellant:
Commander C. Eric Roper, 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. Uniform Code of Military Justice arts. 59, 66, 10 U.S.C. §§ 859, 866.

However, we note that the Entry of Judgment does not accurately reflect the disposition of the charges. Although we find no prejudice, 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 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:


RODGER A. DREW, JR.
Clerk of Court

United States Navy - Marine Corps
Court of Criminal Appeals

UNITED STATES

v.

Sheldon R. MARIANO
Lance Corporal (E-3)
U.S. Marine Corps

Accused

NMCCA NO. 202000175

ENTRY
OF
JUDGMENT

As Modified on Appeal

30 April 2021

On 20 February, 6 April, and 13 May 2020, the Accused was tried at Marine Corps Base Hawaii and Joint Base Pearl Harbor-Hickam, Hawaii, by a general court-martial, consisting of a military judge sitting alone. Military Judge Wilbur Lee presided.

FINDINGS

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

Charge I: Violation of Article 120, Uniform Code of Military Justice, 10 U.S.C. § 920.

Plea: Not Guilty.

Finding: Dismissed.

Specification 1: Sexual assault when the other person was asleep or otherwise unaware between on or about 17 June 2017 and on or about 30 June 2017.

Plea: Not Guilty.

Finding: Dismissed.

Specification 2: Sexual assault by causing bodily harm between on or about 17 June 2017 and on or about 30 June 2017.

Plea: Not Guilty.

Finding: Dismissed.

Charge II: Violation of Article 134, Uniform Code of Military Justice, 10 U.S.C. § 934.

Plea: Guilty.

Finding: Guilty.

Specification 1: Incest between on or about 17 June 2017 and on or about 30 June 2017.

Plea: Not Guilty.

Finding: Dismissed.

Specification 3: Adultery on or about June 2017.

Plea: Guilty.

Finding: Guilty.

Charge IV: Violation of Article 120b, Uniform Code of Military Justice, 10 U.S.C. § 920b.

Plea: Not Guilty.

Finding: Dismissed.

Specification: Sexual abuse of a child on divers occasions between on or about 28 June 2012 and 2 December 2015.

Plea: Not Guilty.

Finding: Dismissed.

Charge VI: Violation of Article 120b, Uniform Code of Military Justice, 10 U.S.C. § 920b.

Plea: Guilty.

Finding: Guilty.

Specification 1: Sexual abuse of a child on or about 10 October 2015.

Plea: Not Guilty.

Finding: Dismissed.

Specification 2: Sexual abuse of a child between on or about 1 July 2013 and on or about 14 July 2013.

Plea: Guilty by exceptions and substitutions.

Finding: Guilty in accordance with plea.

**Charge VII: Violation of Article 92, Uniform Code of Military Justice,
10 U.S.C. § 892.**

Plea: Guilty.

Finding: Guilty.

**Specification 1: Failure to obey lawful military protective order
between on or about 8 December 2018 and on or about
31 December 2018.**

Plea: Guilty.

Finding: Guilty.

**Specification 2: Failure to obey lawful military protective order
between on or about 8 December 2018 and on or about
31 December 2018.**

Plea: Guilty.

Finding: Guilty.

**Charge VIII: Violation of Article 128, Uniform Code of Military Justice,
10 U.S.C. § 928.**

Plea: Guilty.

Finding: Guilty.

**Specification: Assault upon law enforcement officer on or about
18 May 2019.**

Plea: Guilty.

Finding: Guilty.

**Additional Charge I: Violation of Article 128, Uniform Code of Military
Justice, 10 U.S.C. § 928.**

Plea: Guilty.

Finding: Guilty.

**Specification: Assault upon law enforcement officer on or about
24 December 2019.**

Plea: Guilty.

Finding: Guilty.

**Additional Charge II: Violation of Article 134, Uniform Code of Military
Justice, 10 U.S.C. § 934.**

Plea: Guilty.

Finding: Guilty.

Specification: Drunk and disorderly conduct on or about 24 December 2019.

Plea: Guilty.

Finding: Guilty.

Additional Charge III: Violation of Article 120, Uniform Code of Military Justice, 10 U.S.C. § 920.

Plea: Not Guilty.

Finding: Dismissed.

Specification: Sexual assault between on or about 17 June 2017 and on or about 30 June 2017.

Plea: Not Guilty.

Finding: Dismissed.

Additional Charge IV: Violation of Article 128, Uniform Code of Military Justice, 10 U.S.C. § 928.

Plea: Not Guilty.

Finding: Dismissed.

Specification 1: Assault consummated by a battery on or about 28 March 2020.

Plea: Not Guilty.

Finding: Dismissed.

Specification 2: Assault on or about 28 March 2020.

Plea: Not Guilty.

Finding: Dismissed.

Additional Charge V: Violation of Article 134, Uniform Code of Military Justice, 10 U.S.C. § 934.

Plea: Not Guilty.

Finding: Dismissed.

Specification: Drunk and disorderly conduct on or about 28 March 2020.

Plea: Not Guilty.

Finding: Dismissed.

SENTENCE

On 13 May 2020, a military judge sentenced the Accused to the following:

Reduction to pay grade E-1.

Confinement for a total of 24 months.

For Specification 3 of Charge II: confinement for 12 months.

For Specification 2 of Charge VI: confinement for 24 months.

For Specification 1 of Charge VII: confinement for 6 months.

For Specification 2 of Charge VII: confinement for 6 months.

For the Specification of Charge VIII: confinement for 3 months.

For the Specification of Additional Charge I: confinement for 3 months.

For the Specification of Additional Charge II: confinement for 3 months.

The terms of confinement will run concurrently.

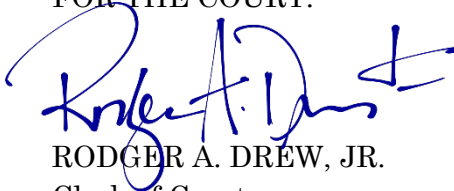
Forfeiture of all pay and allowances.

A dishonorable discharge.

The Accused shall be credited with 42 days of confinement already served, to be deducted from the adjudged sentence to confinement.



FOR THE COURT:


RODGER A. DREW, JR.
Clerk of Court