

Wednesday, 25 March 2015 (1000)

United States v. Bass

**Before Panel 3 of the Court: Senior Judge McFarlane
Judge Holifield
Judge Brubaker**

For Appellant: LT Carrie E. Theis, JAGC, USN

For Appellee: Maj Suzanne M. Dempsey, USMC

A panel of members with enlisted representation sitting as a general court-martial convicted the Appellant, contrary to his pleas, of one specification of violating a lawful general regulation, two specifications of wrongful sexual contact, and two specifications of sodomy in violation of Articles 92, 125, and 120, UCMJ. The appellant was found not guilty of seven specifications of sexual acts and contacts in violation of Article 120, UCMJ and one specification of assault consummated by a battery in violation of Article 128, UCMJ. He was sentenced to seven years' confinement, reduction to pay grade E-1, total forfeitures, and a dishonorable discharge. The convening authority approved the sentence as adjudged, and except for the dishonorable discharge, ordered it executed.

The issues to be argued before this Court are as follows:

- I. WHETHER THE MILITARY JUDGE ERRED IN INSTRUCTING THE MEMBERS THAT CONSENSUAL SODOMY IS A LESSER-INCLUDED OFFENSE OF FORCIBLE SODOMY.
- II. WHETHER ABE2 BASS WAS ON NOTICE OF THE ALTERNATIVE CRIME OF CONSENSUAL SODOMY.