

**Friday, 27 September 2019 (1000)**

The United States Navy-Marine Corps Court of Criminal Appeals Courtroom  
1254 Charles Morris Street SE, Bldg. 58, Suite 320  
Washington Navy Yard, DC 20374

*United States v. Sergeant Felix Ayalacruz, U.S. Marine Corps*

**NMCCA No. 201800193**

**Before the Court (*Special Panel I*):** Chief Judge Crisfield  
Senior Judge King  
Judge Attanasio

**For Appellant:** LT Gregory Hargis, USN

**For Appellee:** LT Joshua C. Fiveson

A special court-martial consisting of officer members convicted Appellant, contrary to his pleas, of one specification of dereliction of duty, in violation of Article 92, UCMJ (10 U.S.C. § 892), one specification of simple assault, in violation of Article 128, UCMJ (10 U.S.C. § 928), and one specification of disorderly conduct, in violation of Article 134, UCMJ (10 U.S.C. § 934). The members sentenced Appellant to a reprimand, reduction to paygrade E-1, and a bad-conduct discharge. The Convening Authority approved the sentence as adjudged.

The issues to be argued before the panel are:

- I. Did the military judge violate Appellant's constitutional protection against double jeopardy when he instructed the court members to revise the announcement of their findings?**
  
- III. A. Did the court members acquit Appellant of both elements of simple assault in the second announcement of their findings through improper exception and substitution?**  
  
**B. Did the language substituted by the court members in the second announcement of their findings fail to state an offense?**