

**UNITED STATES NAVY-MARINE CORPS
COURT OF CRIMINAL APPEALS
WASHINGTON, D.C.**

**Before
D.E. O'TOOLE, F.D. MITCHELL, J.F. FELTHAM
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**PAUL N. WHELAN
STAFF SERGEANT (E-6), U.S. MARINE CORPS**

**NMCCA 200800152
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 14 January 2008.

Military Judge: CDR Robert Redcliff, JAGC, USN.

Convening Authority: Commanding General, 3d Marine
Aircraft Wing, MarForPac, San Diego, CA.

Staff Judge Advocate's Recommendation: Col V.A. Ary, USMC.

For Appellant: CAPT Diane Karr, JAGC, USN.

For Appellee: LT Elliott Oxman, JAGC, USN.

26 August 2008

OPINION OF THE COURT

AS AN UNPUBLISHED DECISION, THIS OPINION DOES NOT SERVE AS PRECEDENT.

PER CURIAM:

A military judge sitting as a special court martial convicted the appellant, consistent with his pleas, of attempted larceny, three specifications of dereliction of duty, making a false official statement, wrongfully using another's social security number,¹ and ten specifications of making and uttering checks without having sufficient funds in his account for

¹ The appellant was charged under Article 134, UCMJ, for a violation of Title 42 U.S.C. § 408(a)(7)(B).

payment, in violation of Articles 80, 92, 107, and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 880, 892, 907, and 934. He was sentenced to 60 days restriction, reduction to pay grade E-4, and, a bad-conduct discharge. The convening authority approved the sentence as adjudged.²

We have carefully considered the record of trial, the appellant's assignment of error alleging that the approved sentence is inappropriately severe, and the Government's response. We conclude that the findings and sentence are correct in law and fact and that no error materially prejudicial to the substantive rights of the appellant was committed. Arts. 59(a) and 66(c), UCMJ. We specifically find that the sentence is appropriate for the offender and his offenses. *United States v. Baier*, 60 M.J. 382 (C.A.A.F. 2005); *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988); *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982).

Conclusion

Accordingly, we affirm the findings and the sentence as approved by the convening authority.

For the Court

R.H. TROIDL
Clerk of Court

² The military judge recommended that the convening authority suspend the bad-conduct discharge.