



UNITED STATES MARINE CORPS

3D MARINE AIRCRAFT WING
MARINE CORPS AIR STATION MIRAMAR
PO BOX 452038
SAN DIEGO CA 92145-2038

IN REPLY REFER TO:

5814

SJA/REV

JUL 13 2011

DNA Processing Required by 10 U.S.C. § 1565.

General Court-Martial Order No. 12-11

Captain Douglas S. Wacker, XXX XX 9313/0602, USMC, was arraigned at Marine Corps Air Station Miramar, California and tried at Camp Pendleton, California, at a General Court-Martial convened by the Commanding General, 3d Marine Aircraft Wing on 3 and 4 November 2010; 22-25 and 28 February 2011; 1-4 and 8-11 March 2011, for the following offenses:

CHARGES

Charges and Specifications*	Pleas*	Findings*
Charge I: Violation of Article 120, UCMJ Specification: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, rape Jessica Brooder.	Not Entered Not Entered	Not Guilty Not Guilty
Charge II: Violation of Article 133, UCMJ Specification 1: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, act in a manner unbecoming of an officer and gentlemen, to wit: committing an indecent assault upon Ms. Elizabeth Easley, a woman not his wife, by straddling the said Ms. Easley by placing his legs on either side of her body, while he knew or should have known that the said Ms. Easley was so significantly intoxicated and mentally and physically impaired as a result of said intoxication that a reasonable officer in the Naval service would have recognized that there was a substantial likelihood that she was incapable of knowingly and voluntarily consenting to any sexual contact.	Not Entered Not Entered	Guilty Not Guilty

Specification 2: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near New Orleans, Louisiana, on or about 3 April 2007, act in a manner unbecoming of an officer and gentlemen, to wit: by wrongfully engaging in sexual intercourse with Ms. Jessica Brooder while he knew, or should have known that Ms. Brooder was so significantly intoxicated and mentally and physically impaired as a result of said intoxication that a reasonable officer in the Naval service would have recognized that there was a substantial likelihood that she was incapable of knowingly and voluntarily consenting to sexual intercourse. Not Entered Not Guilty

Specification 3: In that Captain Douglas S. Wacker, United States Marine Corps, on active duty, did, at or near San Diego, California, on or about 21 June 2007, while the said Captain Wacker was a student at the University of San Diego School of Law in the Marine Corps Excess Leave Program (Law), with intent to deceive, make a false statement before a Critical Issues Board at the University of San Diego in the case of the said Captain Wacker, to wit: that he did not have sexual intercourse with Jessica Brooder on or about 3 April 2007, or words to that effect, which statement was totally false, and was then known by the said Captain Wacker to be so false, and which conduct was unbecoming of an officer and a gentlemen. Not Entered Guilty

* The Corrected Report of Results of Trial dated 24 June 2011 contains a detailed explanation of the charges and specifications, pleas, and findings in this case. I have reviewed the Corrected Report of Results of Trial dated 24 June 2011 and hereby incorporate it by reference.

SENTENCE

Sentence adjudged on 11 March 2011: No punishment.

APPROVAL

In the General Court-Martial case of United States v. Captain Douglas S. Wacker, XXX XX 9313/0602, USMC, the sentence to no punishment as adjudged is approved. I have considered the clemency recommendation made by the court-martial members in conjunction with the announced sentence; the recommendation for clemency is not approved.

EXECUTION

In accordance with the Uniform Code of Military Justice, the Manual for Courts-Martial, applicable regulations, and this action, the sentence to no punishment is ordered executed.

POST-TRIAL DELAY

This action was taken in excess of 120 days from the announcement of sentence. The primary cause for the delay is the unusually lengthy period of time taken to transcribe the record of trial. Furthermore, once the record was transcribed, it was sent to Okinawa, Japan for authentication by the Military Judge and then returned to MCAS Miramar. This transit time added significant delay. Despite the delay, I find no material prejudice to the substantial rights of the accused and corrective action is not warranted.

MATTERS CONSIDERED

Prior to taking action in the case, I considered the results of trial, the recommendation of the Staff Judge Advocate and any addendums thereto, and all matters submitted by the defense counsel and the accused in accordance with R.C.M. 1105 and 1106.

FORWARDING

A copy of the record of trial is forwarded to the President, Naval Clemency and Parole Board, in accordance with the Manual of the Judge Advocate General, section 0153.

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Pursuant to Article 65(a), Uniform Code of Military Justice, the record of trial is forwarded to the Navy-Marine Corps Appellate Review Activity, (Code 40), Office of the Judge Advocate General, Washington Navy Yard, Washington, D.C. 20374 for appellate review.



T. CONANT
Major General
U.S. Marine Corps
Commanding

DISTRIBUTION:

ORIGINAL:

1 - Orig rec of trial

DUPLICATE ORIGINAL:

3 - Orig rec of trial

1 - Ea copy rec of trial

1 - CMC (JAM)

1 - Pres, NC&PB

1 - IPAC

1 - NCIS

1 - MJ (LtCol Jones)

1 - TC (Capt Day)

1 - DC (Capt Hur)

1 - CG (MajGen Conant)

1 - CO MWHS-3