



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1254 CHARLES MORRIS STREET SE SUITE B01
WASHINGTON, DC 20374-5124

IN REPLY REFER TO:

5814

Ser 02/115

OCT 29 2010

From: Judge Advocate General
To: Commanding Officer, 12th Marine Corps District (Attn: SJA)

Subj: APPLICATION FOR RELIEF PURSUANT TO ARTICLE 69(b), UCMJ,
ICO SSGT JOSÉ L. BRITO, XXX-XX-3183, U.S. MARINE CORPS;
NMCCA No. 201000597

Ref: (a) Article 69(b), UCMJ
(b) Article 59(a), UCMJ

Encl: (1) Copy of JAG action 5814 Ser 02/114 of OCT 29 2010
(2) Record of trial

1. This office reviewed the subject case pursuant to reference (a), and in accordance with reference (b). Enclosure (1) sets forth the results of this review.

2. A copy of this letter, together with enclosure (1), should be delivered to Sgt Brito. Enclosure (2) is returned to the Staff Judge Advocate for Commanding Officer, 12th Marine Corps District.


P. B. COLLINS
By direction


Copy to (w/o encl (2)):
CMC (JAM)
SCMO (Maj M. J. Gervasoni)
DC (Capt C. P. Hur)
Accused

IN THE OFFICE OF THE
JUDGE ADVOCATE GENERAL OF THE NAVY

5814
Ser 02/114
OCT 29 2010

U N I T E D S T A T E S)
)
) v.)
José L. BRITO)
Staff Sergeant (E-6))
U.S. Marine Corps)
)
)
)
) Sentence adjudged:
) 30 September 2009

Upon review of the record of trial, the application for relief as supplemented, and the enclosures thereto, it is determined that the court had jurisdiction over the applicant and the offense, that no part of the findings was unsupported in law, and that the sentence was legal and appropriate. Additionally, it is determined that no error materially prejudicial to the substantial rights of the applicant was committed, notwithstanding his assertions that he is innocent of the charges to which he pleaded guilty. Articles 59(a) and 69(b), Uniform Code of Military Justice, 10 U.S.C. §§ 859(a), 869(b). Only evidence in the record of trial will be considered to determine the providence of an applicant's guilty plea. See *United States v. Davenport*, 9 M.J. 364 (C.M.A. 1980). In this case, there is nothing in the record of trial to suggest the applicant's pleas were irregularly entered or that he entered his pleas improvidently or without understanding the meaning and effect of his pleas. See *United States v. Ferguson*, 68 M.J. 432 (C.A.A.F. 2010). Accordingly, the application for relief is denied.


P. B. COLLINS
By direction of the
Judge Advocate General