



UNITED STATES MARINE CORPS

OFFICE OF THE STAFF JUDGE ADVOCATE
1ST MARINE DIVISION
BOX 555381
CAMP PENDLETON, CALIFORNIA 92055-5381

IN REPLY REFER TO:
5814
SJA

NOV 16 2010

From: Staff Judge Advocate
To: Convening Authority

Subj: STAFF JUDGE ADVOCATE'S RECOMMENDATION ICO UNITED STATES V. CORPORAL
GREGORY G. BOLLA 9051/0811 USMC

Ref: (a) Manual for Courts-Martial (2008 ed.)
(b) 10 U.S.C. § 1565
(c) JAGMAN

Encl: (1) Results of Trial
(2) SPCMO# 66-06 of 21 Jun 06
(3) SPCM Judge Advocate Review of 28 Jun 06

1. **Action Required.** This recommendation is to assist you in deciding what action to take on the sentence in the court-martial of Cpl Bolla. While action on the guilty findings or sentence is a matter within your discretion, you must consider the results of trial (enclosure (1)), this recommendation and any addendum thereto, and any post-trial matters submitted by the defense. You may also consider the record of trial and the personnel record of the accused as well as any other matters you deem appropriate. If, however, these matters are adverse to the accused and not included in the record of trial, the defense must be given the opportunity to comment. Reference (a).

2. **Administrative Remarks.** On 11 April 2006, the accused was sentenced to confinement for 12 months, forfeiture of \$848.00 pay per month for 12 months, and reduction to the pay grade of E-1. On 21 June 2006, your predecessor took action on the case, approving the sentence as adjudged and ordering it executed, enclosure (2). On 28 June 2006, a judge advocate reviewed the case pursuant to Article 64(a), UCMJ, enclosure (3). The case was then filed for archiving.

3. **Legal Errors.** During a recent review of the records to be archived, the following errors were discovered in this case:

a. Recommendation not forwarded to convening authority prior to action. Pursuant to R.C.M. 1106 of reference (a), before the convening authority takes action under R.C.M. 1107 on a record of trial by a special court-martial that includes a sentence to confinement for one year, that convening authority's staff judge advocate must forward to the convening authority a recommendation. A recommendation was not forwarded to the convening authority in this case. As such, this recommendation was prepared to correct the prior error and to assist you in taking action on the guilty findings or sentence in the court-martial of Cpl Bolla.

b. Verbatim transcript required. Pursuant to R.C.M. 1103(c)(1), a verbatim transcript is required in all special courts-martial involving a bad-conduct discharge, confinement for more than six months, or forfeiture of pay for more than six months. Because the accused was sentenced to

confinement for more than six months and forfeiture of pay for more than six months, a verbatim transcript was required. However, only a summarized transcript was prepared in this case. Because the record of trial does not meet the requirements of R.C.M. 1103(c)(1), pursuant to R.C.M. 1107(d)(4), you may not approve a sentence that includes confinement for more than six months or forfeiture of pay for more than six months. My recommendation in paragraph ten reflects this limitation.

c. DNA collection required. Federal law and service regulations require authorities, upon conviction of certain qualifying offenses, to collect a sample of the offender's DNA. The order promulgating your action in those cases must contain certain notice requirements. Reference (b). This case requires DNA collection, thus the order promulgating your action must comply with applicable notice requirements. Your predecessor's action failed to contain this notice requirement.

d. Erroneous disposition of the record of trial. Pursuant to R.C.M. 1111(b), in special courts-martial cases including an approved sentence to confinement for one year or a bad-conduct discharge, the record shall be forwarded to the Judge Advocate General. Pursuant to Article 66, UCMJ, the Judge Advocate General shall refer to a Court of Criminal Appeals the record in each case in which the approved sentence includes confinement for one year. Special courts-martial in which the approved sentence does not include a bad-conduct discharge or confinement for one year shall be forwarded to a judge advocate for review under R.C.M. 1112. Your predecessor's action of 21 June 2006 approved a sentence to confinement for one year. As such, the record should have been forwarded to the Judge Advocate General for review by the Court of Criminal Appeals. Because you may not approve a sentence that includes confinement for more than six months, this case will be forwarded to a judge advocate for review under R.C.M. 1112.

4. **Results of Trial.** I have reviewed the results of trial, enclosure (1), and it accurately reflects the charges, findings, and sentence adjudged in this case, as well as any applicable confinement credit.

5. **Pretrial Agreement.** There is no pretrial agreement in this case.

6. **Recommendation of the Sentencing Authority.** I have reviewed the record of trial and there is no clemency recommendation by the sentencing authority made in conjunction with the announced sentence.

7. **Post-Trial Matters Submitted by the Accused.** Post-trial matters by the defense will be provided when received. You are required to consider these matters in determining whether to approve or disapprove any of the findings of guilty and the action you take on the sentence. If, however, the defense does not submit matters within the time allowed, they will have waived this right.

8. **Companion Cases.** In order to make an informed decision in this case, service regulations require you to note in your action the separate trial of any companion cases. Reference (c). Companion cases are other cases referred to trial by you and involve servicemembers who, along with the accused, engaged in criminal conduct in a concerted effort to achieve a common goal. There are no companion cases to this case.

9. **Requests for Deferment.** There have been no requests to defer any part of the sentence, either as adjudged or as mandated under the UCMJ.

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GREGORY G. BOLLA 9051/0811 USMC

10. **Recommendation.** Having reviewed the record of trial, I recommend that you approve only so much of the sentence as provides for confinement for a period of 6 months, forfeiture of \$848.00 pay per month for a period of 6 months, and reduction to pay grade E-1 and order the sentence executed in accordance with the UCMJ, MCM, and applicable regulations. I recommend that you disapprove confinement in excess of six months and forfeiture of pay in excess of six months.



D. K. MARGOLIN

Subj: STAFF JUDGE ADVOCATE'S RECOMMENDATION ICO UNITED STATES V. CORPORAL
GREGORY G. BOLLA 9051/0811 USMC

Acknowledgement of Service

From: Defense Counsel
To: Staff Judge Advocate

Subj: STAFF JUDGE ADVOCATE'S RECOMMENDATION ICO UNITED STATES V. CORPORAL
GREGORY G. BOLLA 9051/0811 USMC

1. I acknowledge that I received the Staff Judge Advocate's recommendation in the subject case on _____ and, unless I request and am granted additional time, that I have ten days to submit post-trial matters in accordance with R.C.M. 1105 and 1106, MCM (2008 ed.). If, after ten days, I have not submitted such matters that right will be deemed waived and the case will be forwarded to the Convening Authority for action.

2. I understand that I have a professional duty to inform and consult with the accused concerning the submission of post-trial matters. Failure to do so maybe the basis of ineffective assistance of counsel claims. Although comment on this recommendation and on matters submitted under R.C.M. 1105, may be waived, such waiver can only be undertaken at the express direction of the accused.

H. FARAJ

FIRST ENDORSEMENT on DC's Acknowledgement of Service

From: Defense Counsel
To: Staff Judge Advocate

Subj: STAFF JUDGE ADVOCATE'S RECOMMENDATION ICO UNITED STATES V. CORPORAL
GREGORY G. BOLLA 9051/0811 USMC

1. I have advised the accused of the purpose and advantages of submitting matters under R.C.M. 1105, and the accused expressly desires to waive the right to submit matters. Further, I have no matters to submit in accordance with R.C.M. 1106.

H. FARAJ



UNITED STATES MARINE CORPS
 LEGAL SERVICES SUPPORT SECTION
 MARINE LOGISTICS GROUP-1, MARFORPAC
 BOX 555607
 CAMP PENDLETON, CALIFORNIA 92055-5607

IN REPLY REFER TO:
 5810
 JWJ
 11 Apr 06

From: Captain J. N. Nelson, Trial Counsel
 To: Commanding Officer, 1st Battalion, 11th Marines, 1st Marine Division, Marine Corps Base Camp Pendleton, California
 Subj: REPORT OF RESULTS OF TRIAL ICO CORPORAL GREGORY G. BOLLA
 147 82 9051 USMC

1. Per R.C.M. 1101(a) and 1304(b)(2)(f)(v), MCM, notification is hereby given in the case of United States v. Corporal Gregory G. Bolla 147 82 9051, a trial by special court-martial occurring on board Marine Corps Base Camp Pendleton, California, convened by 1st Battalion, 11th Marines, 1st Marine Division.

2. Offenses, pleas, and findings:

<u>Offenses</u>		<u>Pleas</u>	<u>Findings</u>
Charge:	Viol of the UCMJ, Art 86	G	G
Spec:	Did, on or abt 11 Jul 05, w/o auth absent himself from his unit until 26 Aug 05.	G	G
Charge II:	Viol of the UCMJ, Art 87	G	G
Spec:	Did, on or abt 16 Jul 05, by design miss the movement of his unit.	G	G

3. Forum: Members with enlisted representation. LtCol E. H. Robinson, USMC, served as the military judge.

4. Sentence adjudged (if specific sentence provision does not apply indicate "NA"):

Discharge (Dismissal, DD, BCD)	NA
Confinement	12 months
Hard Labor w/out confinement	NA
Reduction	E-1
Forfeiture	\$848 per mo for 12 mos
Reprimand	NA
Other	NA

5. Date sentence adjudged: 11 April 2006. Adjudged and automatic forfeitures and reduction in rank become effective 25 April 2006.

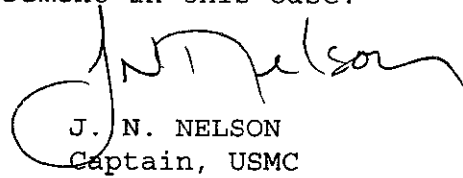
6. Automatic forfeiture of 2/3 pay applies from 25 April 2006 until the accused is released from confinement.

7. Credits to be applied to confinement: None.

ORIGINAL

Subj: REPORT OF RESULTS OF TRIAL ICO CORPORAL GREGORY G. BOLLA
147 82 9051 USMC

8. There was no pretrial agreement in this case.



J. N. NELSON
Captain, USMC
Trial Counsel

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UNITED STATES MARINE CORPS
 1ST BATTALION, 11TH MARINES
 1ST MARINE DIVISION (REIN)
 BOX 555514
 CAMP PENDLETON, CALIFORNIA 92055-5514

IN REPLY REFER TO:
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SPECIAL COURT-MARTIAL ORDER
 AND ACTION NUMBER.....66-06

JUN 21 2006

Before a special court-martial which convened at Camp Pendleton, California, on 4 and 11 April 2006, pursuant to the convening order issued by this Headquarters, Serial: #2-04 of 23 November 2004, as amended by Serial: #2-04a of 29 March 2006 was arraigned and tried:

Corporal Gregory G. Bolla 147 82 9051/0811 U.S. Marine Corps, 1st Battalion, 11th Marines, 1st Marine Division, Camp Pendleton, California.

The accused was arraigned on 4 April 2006, and entered a plea of Guilty to all Charges and Specifications, and elected to be tried by military judge alone for findings and then as to sentencing, by members with enlisted representation. The court-martial proceeded to trial on the following offenses with the following results being reached:

<u>Charges</u>	<u>Pleas</u>	<u>Findings</u>
Charge I: Violation of Article 86, UCMJ	G	G
Specification: UA fr on or abt 11 Jul 05 until on or abt 26 Aug 05.	G	G
Charge II: Violation of Article 87, UCMJ	G	G
Specification: Did, on or abt 16 Jul 05 through design, miss the movement of 2d Bn, 1st Mar, 1st Mar Div, with which he was required in the course of duty to move.	G	G

SENTENCE

The President announced the following sentence on 11 April 2006: Confinement for a period of 12 months, forfeitures of \$848.00 pay per month for a period of 12 months, and reduction to private, pay grade E-1.

ACTION BY THE CONVENING AUTHORITY

In the special court-martial case of Corporal Gregory G. Bolla 147 82 9051/0811 U.S. Marine Corps, tried on 4 and 11 April 2006, at Camp Pendleton, California, the sentence is approved and ordered executed.

The Base Brig, Marine Corps Base, Camp Pendleton, California, is designated as the place of confinement.

Prior to taking action, I carefully considered the results of trial and the entire record of trial.

The record of trial is forwarded to the Review Officer, Legal Services Support Section, 1st Marine Logistics Group, Camp Pendleton, California, for review under Article 64(a), UCMJ.



P. W. BOGGS
Lieutenant Colonel
U.S. Marine Corps
Commanding

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UNITED STATES MARINE CORPS
 LEGAL SERVICES SUPPORT SECTION
 1ST MARINE LOGISTICS GROUP
 BOX 555607
 CAMP PENDLETON, CALIFORNIA 92055-5607

 UNITED STATES)
)
 V.) SPECIAL COURT-MARTIAL
)
 Bolla, Gregory G.) JUDGE ADVOCATE REVIEW
 147 82 9051)
 Corporal)
 U.S. Marine Corps)
)
 Date of trial: 4 April 2006) Date: 28 June 2006

1. Pursuant to Article 64(a), Uniform Code of Military Justice and Rule for Courts-Martial 1112, Manual for Courts-Martial (2005 Ed.), I have reviewed this case and concluded that:

- a. The court-martial had jurisdiction over the accused;
- b. The court-martial had jurisdiction over each offense as to which there is a finding of guilty which has not been disapproved;
- c. Each specification, in which a finding of guilty was not disapproved, stated an offense; and,
- d. The sentence as adjudged and approved was legal.

2. The accused submitted no matters that require response pursuant to Rule for Courts-Martial 1112(d)(2).

Eric L. Emerich
 ERIC L. EMERICH
 Major
 U.S. Marine Corps
 Judge Advocate

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DUPLICATE ORIGINAL:
 CO, 1st Bn, 11th Mar, 1st MarDiv
 Acc
 Left hand side of accused's SRB
 File