

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

**Before
C.L. REISMEIER, J.A. MAKSYM, B.L. PAYTON-O'BRIEN
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**ALAN D. SOBENES
LANCE CORPORAL (E-3), U.S. MARINE CORPS**

**NMCCA 201000381
GENERAL COURT-MARTIAL**

Sentence Adjudged: 26 March 2010.

Military Judge: CDR Mario DeOliveira, JAGC, USN.

Convening Authority: Commanding General, Training and Education Command, Quantico, VA.

Staff Judge Advocate's Recommendation: LtCol C.M. Greer, USMC.

For Appellant: Maj Kirk Sripinyo, USMC.

For Appellee: Capt Samuel C. Moore, USMC.

28 December 2011

OPINION OF THE COURT

THIS OPINION DOES NOT SERVE AS BINDING PRECEDENT, BUT MAY BE CITED AS PERSUASIVE AUTHORITY UNDER NMCCA RULE OF PRACTICE AND PROCEDURE 18.2.

PER CURIAM:

By decision dated 28 April 2011, this court affirmed the findings and sentence in the appellant's court-martial, awarding no relief as to any of the four errors assigned by the appellant. The appellant subsequently petitioned the Court of Appeals for the Armed Forces (CAAF) for review and, on 21 September 2011, CAAF vacated this court's decision and returned the record of trial to the Judge Advocate General for remand to

this court "for consideration of the granted issue in light of *United States v. Fosler*, 70 M.J. 225 (C.A.A.F. 2011)."

Regarding the remanded question, we again affirm the findings of guilt, pursuant to the appellant's pleas, for the reasons set for in *United States v. Hackler*, __ M.J. __ (N.M.Ct.Crim.App. 22 Dec 2011). As to all other matters in the appellant's case, for the reasons stated in our prior opinion, we again conclude that the findings and sentence are correct in law and fact and that no error materially prejudicial to the substantial rights of the appellant was committed. Arts. 59(a) and 66(c), UCMJ. Accordingly, we affirm the findings and the sentence as approved by the convening authority.

For the Court

R.H. TROIDL
Clerk of Court