

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

**Before
B.L. PAYTON-O'BRIEN, R.Q. WARD, J.S. SMITH
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**SIMON C. KONG
PRIVATE FIRST CLASS (E-2), U.S. MARINE CORPS**

**NMCCA 201200318
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 10 April 2012.

Military Judge: LtCol Stephen Keane, USMC.

Convening Authority: Commanding Officer, 1st Marine Regiment,
1st Marine Division (REIN), Camp Pendleton, CA.

Staff Judge Advocate's Recommendation: Maj V.G. Laratta, USMC.

For Appellant: CAPT Diane Karr, JAGC, USN.

For Appellee: Mr. Brian Keller, Esq.

22 January 2013

OPINION OF THE COURT

After careful consideration of the record, submitted without assignment of error, we affirm the findings and sentence as approved by the convening authority. Art. 66(c), Uniform Code of Military Justice, 10 U.S.C. § 866(c).¹

For the Court

R.H. TROIDL
Clerk of Court

¹ To the extent that the convening authority's action purports to direct that the punitive discharge will be executed after final judgment it is a legal nullity. See *United States v. Tarniewicz*, 70 M.J. 543 (N.M.Ct.Crim.App. 2011).