

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

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

**UNITED STATES OF AMERICA**

**v.**

**MAURICE J. DAY, JR.  
AVIATION ORDNANCEMAN AIRMAN APPRENTICE (E-2), U.S. NAVY**

**NMCCA 201200463  
SPECIAL COURT-MARTIAL**

**Sentence Adjudged:** 24 July 2012.

**Military Judge:** CAPT Kevin O'Neil, JAGC, USN.

**Convening Authority:** Commanding Officer, USS CARL VINSON  
(CVN 70).

**Staff Judge Advocate's Recommendation:** LCDR M.V. Rosen  
JAGC, USN.

**For Appellant:** CAPT Diane Karr, JAGC, USN.

**For Appellee:** CDR Gregory R. Dimler, JAGC, USN; LT Philip  
S. Reutlinger, JAGC, USN.

**12 February 2013**

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**OPINION OF THE COURT**  
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**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:

A military judge, sitting as a special court-martial, convicted the appellant, pursuant to his pleas, of conspiracy and wrongful introduction and distribution of "Spice," in violation of Articles 81 and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 881 and 934. The appellant was sentenced to confinement for 235 days, reduction to pay grade E-1, and a

bad-conduct discharge. The convening authority approved the sentence as adjudged.

The appellant asserts one error as it relates to the court-martial order (CMO). The CMO erroneously fails to properly reflect the excepted and substituted language as indicated in the appellant's pleas and the findings of the court as to the specification under Charge I. We find this error to be harmless and we find that no error materially prejudicial to the substantial rights of the appellant occurred. Arts. 59(a) and 66(c), UCMJ. Nevertheless, the appellant is entitled to have the promulgating order correctly reflect the results of his court-martial. *United States v. Crumpley*, 49 M.J. 538, 539 (N.M.Ct.Crim.App. 1998).

The findings and the sentence are affirmed. The supplemental court-martial order shall reflect that the following language is excepted and substituted in the plea and finding as to the specification of Charge I:

Except the language "on or about 30 November 2010 and on or about June 15, 2011" substituting therefor the words "on or about December 2010 and on or about April 2011"; and except for the words "on or about 30 November 2010 and on or about 15 June 2010" and substituting therefor the words "on or about December 2010 and on or about April 2011."

For the Court

R.H. TROIDL  
Clerk of Court