

Wednesday, 1 September 2010

United States v. Curry

A special court-martial, with enlisted representation, convicted the appellant by exceptions and substitutions and contrary to his pleas, of having stolen military property of a value of over \$500.00 from August 2006 to the time of his court-martial, in violation of Article 121, UCMJ, 10 U.S.C. § 921(2005). The appellant was sentenced to a bad-conduct discharge and a reduction in pay grade to E-1. The convening authority approved the findings and sentence as adjudged and, except for the bad-conduct discharge, ordered it executed. The issues to be argued before the court are:

I. WHETHER THE EVIDENCE WAS FACTUALLY AND LEGALLY SUFFICIENT TO SUSTAIN A FINDING OF GUILT TO THE CHARGE OF LARCENY AS THE GOVERNMENT DID NOT PROVE BEYOND A REASONABLE DOUBT THAT THE APPELLANT KNEW THAT HE WAS NOT ENTITLED TO BAH WHEN HE SUBMITTED HIS VALID MARRIAGE LICENSE TO PSD.

Thursday, 2 September 2010

United States v. Vasquez

A panel of members with enlisted representation sitting as a general court-martial convicted the appellant, contrary to his pleas, of one specification of attempted possession of Oxycontin, a Schedule I controlled substance, with the intent to distribute, in violation of Article 80, UCMJ, 10 U.S.C. § 880. The Members sentenced the appellant to three years confinement, reduction to pay grade E-1, forfeiture of all pay and allowances, and a dishonorable discharge. The Convening Authority approved the sentence as adjudged and, except for the punitive discharge, ordered the sentence executed. The issues to be argued before the Court are:

I. APPELLANT'S CONVICTION IS FACTUALLY AND LEGALLY INSUFFICIENT BECAUSE THE GOVERNMENT DID NOT INTRODUCE SUFFICIENT EVIDENCE TO PROVE BEYOND A REASONABLE DOUBT THAT APPELLANT WAS NOT ENTRAPPED INTO THE OFFENSE OF ATTEMPTED POSSESSION WITH THE INTENT TO DISTRIBUTE.

II. THE MILITARY JUDGE ERRED BY DENYING APPELLANT'S MOTION TO DISMISS FOR A VIOLATION OF ARTICLE 10, UCMJ.

III. APPELLANT'S SENTENCE IS INAPPROPRIATELY SEVERE BECAUSE GOVERNMENT CONDUCT ENTICED APPELLANT INTO COMMITTING AN OFFENSE

QUALITATIVELY MORE SEVERE THAN HE ORIGINALLY INTENDED. IN ADDITION, HE HAS NOW BEEN SENTENCED BY TWO SOVEREIGNS FOR THE SAME CRIME.

Friday, 10 September 2010

1000

United States v. Hayes

A Military Judge sitting as a special court-martial convicted the appellant, in accordance with his pleas, of indecent acts by exceptions and substitutions, in violation of Article 134, UCMJ, 10 U.S.C. § 934 (2005). The appellant was sentenced to a bad-conduct discharge, confinement for one year and a reduction in paygrade to E-1. The convening authority approved the findings and sentence as adjudged and, except for the bad-conduct discharge, ordered it executed. The issues to be argued before the court are:

I. WHETHER THE MILITARY JUDGE'S COMMENTS ON THE RECORD AND DURING THE "BRIDGING THE GAP" DISCUSSIONS WITH COUNSEL REFLECT AN ACTUAL BIAS AGAINST THE APPELLANT'S SEXUAL ORIENTATION, RESULTING IN THE MILITARY JUDGE'S DISQUALIFICATION FROM PRESIDING OVER APPELLANT'S COURT-MARTIAL?

II. WHETHER THE MILITARY JUDGE'S COMMENTS ON THE RECORD AND DURING THE "BRIDGING THE GAP" DISCUSSIONS WITH COUNSEL CREATED AN APPEARANCE OF BIAS AGAINST THE APPELLANT'S SEXUAL ORIENTATION, RESULTING IN THE MILITARY JUDGE'S DISQUALIFICATION FROM PRESIDING OVER APPELLANT'S COURT-MARTIAL?