

IN THE UNITED STATES COAST GUARD
COURT OF CRIMINAL APPEALS

UNITED STATES,
Appellee

v.
Eric A. MICHAELS,
Seaman (E-3),
U.S. Coast Guard,
Appellant

2 February 2012

JUDICIAL NOTICE: *SUA SPONTE*
ORDER TO PROVIDE RECORDS OF
TRIALS OF COMPANION CASES

CGCMS 24449

DOCKET NO. 1352

ORDER – PANEL TEN

On 22 September 2011, Appellant filed his Assignment of Error and Brief with this Court. He asserts that his adjudged sentence of a bad-conduct discharge and five months confinement is inappropriately disparate from six companion cases, rendering his sentence inappropriately severe as a matter of law. As part of the same filing, Appellant moved to attach three promulgating orders from general and special courts-martial and extracts from the records of trial of three summary courts-martial, averring that they relate to six companion cases originating from the Coast Guard Cutter VENTUROUS. We granted the motion to attach.

On 24 October 2011, the Government filed its Answer and Brief with this Court. The Government concedes that Appellant's case is closely related to the six companion cases, but that Appellant's sentence is not highly disparate and that there is a rational basis for the differences in the sentences. As part of the same filing, the Government filed a motion to attach a table summarizing the six companion cases. The table provides, on a single page, the forum, articles charged and number of specifications under each, findings, and sentence of the six companion cases. We granted the motion to attach.

The information on the six companion cases is limited. We have the substance of the specifications of which the accuseds were convicted for only four cases. We have a summary of the evidence for only two of the cases, both summary courts-martial. This information is not sufficient for us to properly compare the cases. To properly compare them, we believe we should consider the entire records of the cases.

We will take judicial notice of the records of the six cases. Accordingly, it is, by the Court, this 2nd day of February, 2012,

ORDERED:

That the Government shall, within thirty days, provide to the Court four copies of the records of the trials of the six companion cases, and a copy of each to Appellant's counsel.

Appellant's counsel shall not reveal to Appellant personal identifying information from any of the records, such as social security numbers.

Once the records of the six companion cases are received, the parties shall have thirty days to file a supplemental pleading if desired. If either party files a supplemental pleading, the other party shall have fifteen days to file a responsive pleading.

For the Court,

John T. Ure
Clerk of the Court

Copy: Office of Military Justice
Appellate Government Counsel
Appellate Defense Counsel