

**UNITED STATES COAST GUARD COURT OF CRIMINAL APPEALS
Washington, DC**

UNITED STATES

v.

Tony L. ROMERO

Marine Science Technician Second Class (E-5), U.S. Coast Guard

CGCMS 24132

Docket No. 1085

22 September 1997

Special Court-Martial convened by Commanding Officer, Marine Safety Office, Port Arthur, Texas.
Tried at Nederland, Texas on 5 December 1996.

Military Judge:	CDR G. R. Wheatley, USCG
Trial Counsel:	LCDR Thomas D. Beistle, USCG
Assistant Trial Counsel:	LTJG Stephen J. Alvarez, USCG
Detailed Defense Counsel:	LT Christopher Batman, JAGC, USNR
Appellate Defense Counsel:	LT Richard R. Beyer, USCGR
Appellate Government Counsel:	LT William G. Rospars, USCG

BEFORE

PANEL TWO

BAUM, KANTOR, McCLELLAND

Appellate Military Judges

Per Curiam:

Appellant was tried by a special court-martial before a military judge alone. Pursuant to his pleas of guilty, entered in accordance with a pretrial agreement, he was convicted of the following offenses: one specification of absence without leave, two specifications of wrongful use of cocaine, one specification of wrongful appropriation of an automobile, and one specification of assault, in violation of Articles 86, 112a, 121 and 128 of the Uniform Code of Military Justice (UCMJ). The judge sentenced appellant to reduction to paygrade E-3, confinement for 75 days, and a Bad-Conduct discharge. The convening authority reduced the confinement to 61 days and approved the remainder of the sentence as adjudged,

which was within the terms of the pretrial agreement.

Appellant assigned as error that the promulgating order incorrectly identified Charge II as arising under Article 122a, UCMJ, rather than Article 112a. In response, the Government filed a corrected Court-Martial Order with this Court on 4 September 1997, which now correctly reflects that the conviction was pursuant to 112a, UCMJ. This defect has therefore been cured.

Aside from that defect, and without admitting that the findings and sentence are correct in fact and law, Appellant has submitted his case on its merits as to any and all issues. In this regard, we have reviewed the record in accordance with Article 66, UCMJ. Upon such review, the findings and sentence are determined to be correct in law and fact and on the basis of the entire record should be approved. Accordingly, the findings and sentence, as approved and partially suspended below, are affirmed.

Chief Judge Baum and Judge Kantor concur. Judge McClelland did not participate in the decision.

For the Court

R. Hamish Waugh
Clerk of the Court