

**IN THE UNITED STATES COAST GUARD
COURT OF CRIMINAL APPEALS**

UNITED STATES,)	7 September 2017
Appellee)	
)	
)	BRIEF ON BEHALF OF APPELLANT
)	
)	
v.)	Dkt. 1455
)	Case No. G 0357
)	Panel 25
)	
)	
DAVID A. SCHWARTZ)	Tried at Norfolk, VA by a general court-martial
Storekeeper Second Class)	convened by Commander, Force Readiness
U. S. Coast Guard,)	Command, on 19 December 2016 and 17
Appellant)	February 2017

**TO THE HONORABLE, THE JUDGES OF THE UNITED STATES
COAST GUARD COURT OF CRIMINAL APPEALS**

Statement of the Case

A military judge sitting as a general court-martial convened by Commander, Force Readiness Command tried Appellant, Storekeeper Second Class (SK2) David Schwartz, United States Coast Guard (USCG), at Norfolk, Virginia, on 19 December 2016 and 17 February 2017. Consistent with his pleas, EM2 Schwartz was found guilty of one specification of sexual abuse of a child, in violation of Article 120b, UCMJ, 10 U.S.C. § 920b (2016) and three specifications of assault consummated by battery upon a child under 16 years, in violation of Article 128, UCMJ, 10 U.S.C. § 928 (2016). A charge of aggravated sexual assault of a child who has obtained the age of 12 years but has not attained the age of 16, in violation of Article 120, UCMJ, 10 U.S.C. § 920 (2012), was withdrawn and dismissed, as were two specifications of sexual abuse of a child, in violation of Article 120b, UCMJ, 10 U.S.C. § 920b (2016), two specifications of indecent

viewing in violation of Article 120c, UCMJ, 10 U.S.C. § 920c (2016) , four specifications assault consummated by battery upon a child under 16 years, in violation of Article 128, UCMJ, 10 U.S.C. § 928 (2016), and a single specification of indecent language in violation of Article 134, UCMJ, 10 U.S.C. § 934 (2016).

The military judge sentenced SK2 Schwartz to reduction in paygrade to E-1, confinement for four years, and to be discharged from the service with a dishonorable discharge. (R. at 380.) The convening authority approved the sentence as adjudged and, except for the part of the sentence extending to a dishonorable discharge, ordered it executed on 2 June 2017. (Action.) The Judge Advocate General of the Coast Guard referred the case to the Coast Guard Court of Criminal Appeals (CGCCA) for review under Article 66, UCMJ, 10 U.S.C. § 866 (2012) on 21 June 2017.

Statement of Facts

A recitation of facts is not necessary for the resolution of this case.

Errors and Argument

Undersigned counsel, having carefully examined the record of trial in this case, and without admitting that the findings and sentence are correct in fact and law, submits this case to the Court on its merits as to any and all errors.

WHEREFORE, Appellant so prays.

DATE: 7 September 2017

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was delivered to the Court and opposing counsel via email on 7 September 2017.

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