

**UNITED STATES COAST GUARD COURT OF CRIMINAL APPEALS
Washington, D.C.**

UNITED STATES

v.

**Alliston W. MIZELLE
Boatswain's Mate First Class (E-6), U.S. Coast Guard Reserve**

CGCMS 24433

Docket No. 1337

28 October 2010

Special Court-Martial convened by Commanding Officer, Coast Guard Joint Maritime Training Center. Tried at Camp Lejeune, North Carolina, on 30 September 2009.

Military Judge:	LCDR Casey L. Chmielewski, USCG
Trial Counsel:	LT Kismet R. Wunder, USCGR
Assistant Trial Counsel:	LT Angela A. Novy, USCGR
Defense Counsel:	LT Kevin D. Shea, JAGC, USN
Appellate Defense Counsel:	LT Eric J. Lobsinger, USCGR
Appellate Government Counsel:	LCDR Douglas K. Daniels, USCG

**BEFORE
McCLELLAND, TOUSLEY & SELMAN¹
Appellate Military Judges**

Per curiam:

Appellant was tried by special court-martial, military judge alone. Pursuant to his pleas of guilty, entered in accordance with a pretrial agreement, Appellant was convicted of one specification of conspiracy to commit larceny, in violation of Article 81, Uniform Code of Military Justice (UCMJ); one specification of making a false official statement, in violation of Article 107, UCMJ; and one specification of larceny, in violation of Article 121, UCMJ. The military judge sentenced Appellant to confinement for five months, reduction to E-1, and a bad-conduct discharge. The Convening Authority approved the sentence as adjudged. The pretrial agreement did not affect the sentence.

¹ Judge Selman did not participate in this decision.

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Before this court, without admitting that the findings and sentence are correct in law and fact, Appellant has submitted this case on its merits as to any and all errors.

We note that when pleas were entered, no plea was entered to Charge II, although pleas were entered to the specifications under that charge. (R. at 27-28.) Like the Air Force court in *United States v. Logan*, 15 M.J. 1084, 1085 (A.F.C.M.R. 1983), we find that this procedural irregularity was harmless. See *United States v. Giermek*, 3 M.J. 1013, 1014 (C.G.C.M.R. 1977) (failure to enter a finding as to a charge was harmless error in view of the entry of a finding as to the specification under the charge). Nevertheless, we urge military judges and counsel to ensure that complete pleas are entered in all cases.

Decision

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 of guilty and the sentence, as approved below, are affirmed.



For the Court,

Brian J Barnes
Clerk of the Court