

# UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before  
COOK, HAIGHT, and MAGGS  
Appellate Military Judges

**UNITED STATES, Appellee**  
**v.**  
**Private E1 JOHNNELL JOLIVETTE**  
**United States Army, Appellant**

ARMY 20120938

Seventh U.S. Army Joint Multinational Training Command  
Joshua S. Shuey, Military Judge  
Lieutenant Colonel David E. Mendelson, Staff Judge Advocate

For Appellant: Major Jacob D. Bashore, JA; Captain Brian J. Sullivan, JA (on brief).

For Appellee: Major Robert A. Rodrigues, JA (on brief).

23 May 2013

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SUMMARY DISPOSITION  
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Per Curiam:

A military judge sitting as a special court-martial convicted appellant, pursuant to his pleas, of one specification of going from his appointed place of duty and five specifications of wrongful distribution of a controlled substance in violation of Articles 86 and 112a, Uniform Code of Military Justice, 10 U.S.C. §§ 886, 912a (2006) [hereinafter UCMJ]. The convening authority approved the adjudged sentence of a bad-conduct discharge, confinement for nine months, and forfeiture of \$700.00 pay per month for nine months.

At action, the convening authority waived the automatic forfeiture of two-thirds of pay required by Article 58b, UCMJ, for a period of two months, with the direction the funds be paid to appellant's mother, for the benefit of appellant's son. However, the convening authority failed to disapprove the adjudged forfeitures, leaving only partial pay to waive for the benefit of appellant's son. In order to effectuate the clear intent of the convening authority, and in the interest of judicial economy, we set aside that portion of the sentence that includes forfeiture of pay.

On consideration of the entire record, and the matters personally raised by appellant pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), the

JOLIVETTE—ARMY 20120938

findings of guilty are AFFIRMED. Only so much of the approved sentence as provides for a bad-conduct discharge and confinement for nine months is AFFIRMED. All rights, privileges, and property of which appellant was deprived by virtue of that portion of his sentence set aside by this decision are hereby ordered restored. *See* UCMJ arts. 58(b), 75(a).



FOR THE COURT:

A handwritten signature in black ink, reading "Malcolm H. Squires, Jr.", written in a cursive style.

MALCOLM H. SQUIRES, JR.  
Clerk of Court