

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
SALUSSOLIA, SALADINO, and ALDYKIEWICZ
Appellate Military Judges

UNITED STATES, Appellee
v.
Private E2 KELVIN D. PEEBLES
United States Army, Appellant

ARMY 20170044

Headquarters, Fort Drum
S. Charles Neill, Military Judge
Colonel Peter R. Hayden, Staff Judge Advocate

For Appellant: Lieutenant Colonel Tiffany M. Chapman, JA; Major Todd W. Simpson, JA; Captain Heather M. Martin, JA (on brief); Major Todd W. Simpson, JA; Captain Heather M. Martin, JA (on reply brief).

For Appellee: Colonel Steven P. Haight, JA; Lieutenant Colonel Eric K. Stafford, JA; Major Hannah E. Kaufman, JA; Captain Meredith M. Picard, JA (on brief).

24 April 2019

OPINION OF THE COURT ON RECONSIDERATION

Per Curiam:

In light of our superior court's decision in *United States v. McDonald*, __M.J.__, 2019 CAAF LEXIS 271 (C.A.A.F. 17 Apr. 2019), this court sua sponte reconsiders its 10 January 2019 decision in this case.¹

¹ We have also reconsidered appellant's three assigned errors and the matters appellant personally asserted pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), and determine they do not warrant discussion or relief.

CONCLUSION

For the reasoning set forth by our superior court in *McDonald*, the 10 January 2019 published opinion of this court, *United States v. Peebles*, 78 M.J. 658 (Army Ct. Crim. App. 2019), is hereby VACATED.

Pursuant to our reconsideration of the entire record, we hold the findings of guilty and the sentence as approved by the convening authority correct in law and fact. Accordingly, those findings of guilty and the sentence are AFFIRMED.



FOR THE COURT:

A handwritten signature in black ink that reads "J. Talbert".

JOSEPH P. TALBERT
Acting Clerk of Court