

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
CAMPANELLA, SALUSSOLIA, and FLEMING
Appellate Military Judges

UNITED STATES, Respondent

**Private (E2) VANESSA AYALA-SANTIAGO
United States Army, Appellant**

ARMY 20170136

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

For Appellant: Major Julie L. Borchers, JA; Captain Daniel C. Kim, JA (on brief).

For Appellee: Pursuant to A.C.C.A. Rule 15.2, no response filed.

22 February 2018

SUMMARY DISPOSITION

CAMPANELLA, Senior Judge:

A military judge sitting as a special court-martial convicted appellant of two specifications of being absent without leave (AWOL) in violation of Article 86, Uniform Code of Military Justice [UCMJ], 10 U.S.C. § 886 (2012). The military judge sentenced appellant to a bad-conduct discharge, confinement for 150 days, and reduction to the grade of E-1.

Instead of following the advice of his Staff Judge Advocate, the initial convening authority signed an action approving the adjudged sentence instead of a sentence limited by the pretrial agreement. Subsequently, in an undated document, a successor-in-command acting as the general court-martial convening authority attempted to “correct” the initial action without rescinding the previously published action.

Appellant asserts neither assigned errors nor issues pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982). Having reviewed appellant’s case pursuant to Article 66, UCMJ, we affirm the findings and so much of the sentence as provides

AYALA-SANTIAGO—ARMY 20170136

for a bad-conduct discharge, confinement for 121 days, and reduction to E-1.*
Appellant is credited with eighty-three days of credit against the sentence to
confinement.

CONCLUSION

The findings of guilty and the sentence are AFFIRMED.

Judge SALUSSOLIA and Judge FLEMING concur.



FOR THE COURT:

A handwritten signature in black ink, appearing to read "Malcolm H. Squires, Jr.", is written over the printed name.

MALCOLM H. SQUIRES, JR.
Clerk of Court

* The promulgating order is amended to reflect that prior to findings, the Specification of The Additional Charge was amended by deleting the AWOL termination date of 7 November 2008 and substituting therefor the date of 2 August 2008.