

United States Navy - Marine Corps Court of Criminal Appeals

UNITED STATES

Appellee

v.

Derek E. TABOR
Staff Sergeant (E-6)
U. S. Marine Corps

Appellant

NMCCA NO. 202100046

The Court En Banc

ORDER

*Order for Issue to Be
Entertained at Oral Argument*

On 12 January 2022, Panel 2 of the Court ordered oral argument on two assignments of error to be conducted on 17 February 2022. On 3 February 2022, the Court granted the joint motion to reschedule the oral argument for 24 March 2022. On 17 February 2022, the Court notified the parties that the case will be heard by the Court sitting En Banc.

Upon further consideration, it is this 4th day of March, 2022:

ORDERED:

That the En Banc Court will entertain oral argument only on the following restated assignment of error:

I.a. In order to convict Appellant of the offense of sexual abuse of a child by a lewd act, must Miss Bravo have been aware of the indecent conduct Appellant counseled Ms. Charles to engage in next to her?

See United States v. Schmidt, 80 M.J. 586 (N-M. Ct. Crim. App. 2020), *aff'd*, ___ M.J. ___, No. 21-0004, 2022 CAAF LEXIS 139 (C.A.A.F. Feb. 11, 2022) (plurality).

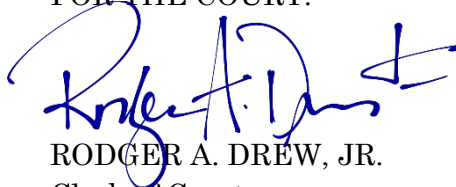
b. If so, did the military judge abuse his discretion by accepting Appellant's plea without an "adequate factual basis to support the plea?"

See United States v. Inabinette, 66 M.J. 320, 321 (C.A.A.F. 2008).

United States v. Tabor, NMCCA No. 202100046
Order for Issue to Be Entertained at Oral Argument



FOR THE COURT:

A handwritten signature in blue ink, which appears to read "Rodger A. Drew, Jr.", is written over the printed name.

RODGER A. DREW, JR.
Clerk of Court

Copy to:

Ms. Bethany Peyton-O'Brien, Esq.

Ms. Elizabeth A. Harvey, Esq.

45 (Maj Finnen)

46 (LT Crochetiere)

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