

**UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

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**UNITED STATES**

**v.**

**Airman First Class RICHARD W. ACKERMAN  
United States Air Force**

**ACM 34099**

**9 January 2003**

Sentence adjudged 2 March 2002 by GCM convened at Whiteman Air Force Base, Missouri. Military Judge: Gregory Pavlik.

Approved sentence: Dishonorable discharge, confinement for 4 years, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Lieutenant Colonel Timothy W. Murphy, and Captain Jennifer K. Martwick.

Appellate Counsel for the United States: Colonel Anthony P. Dattilo, Lieutenant Colonel Lance B. Sigmon, and Captain Christa S. Cothrel.

Before

**BURD, PECINOVSKY, and EDWARDS  
Appellate Military Judges**

**OPINION OF THE COURT**

**PER CURIAM:**

On 1-2 March 2000, the appellant was tried by general court-martial at Whiteman Air Force Base, Missouri. He was found guilty, consistent with his pleas, of one specification of desertion from 1981 until apprehension in 1999, five specifications of distribution of hashish marijuana in 1981, one specification of possession of hashish in 1981, one specification of possession of marijuana in 1999, and two specifications of false representation of a social security number (SSN)<sup>1</sup>, in violation of Articles 85, 112a,

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<sup>1</sup> These specifications were charged as violations of 42 U.S.C. § 408(a)(7)(B), made applicable to courts-martial through Article 134, UCMJ, 10 U.S.C. § 934. The appellant used a fake SSN to obtain a driver's license and then presented the license to the police when he was stopped in 1999.

and 134, UCMJ, 10 U.S.C. §§ 885, 912a, 934. He was sentenced by officer members to a dishonorable discharge, confinement for 4 years, forfeiture of all pay and allowances, and reduction to E-1. The adjudged sentence was approved by the convening authority.

The appellant argues that the convening authority erred in crediting the appellant with only 110 days of pretrial confinement credit rather than 112 days. The government concurs and we agree. Additionally, the appellant raises 11 errors, pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982). He alleges many errors in the trial process that led to his conviction including: a missing Article 32 report, errors in the pretrial and post-trial advice, unlawful command influence, stacking of court members, implied bias by court members, pressure on the appellant's brother, improper work details during pretrial confinement, and ineffective assistance of counsel. We have fully considered all of the appellant's *Grostefon* claims and find that they are without merit.

The appellant was facing court-martial in 1981 for five specifications of distribution of hashish and one specification of possession of hashish. He deserted and was apprehended in 1999. The original pretrial investigation under Article 32, UCMJ, 10 U.S.C. § 832 (Article 32), could not be located. As a result, the convening authority withdrew the initial charges and a new Article 32 was conducted, addressing the original charges and the additional charges of possession of marijuana, desertion and false representations concerning a SSN.

At trial, the military judge correctly stated that the appellant should be credited with 112 days of pretrial confinement. The convening authority's action erroneously states that the appellant will be credited with only 110 days of pretrial confinement. We hold that the appellant should have been credited with 112 days of pretrial confinement. We, therefore, order that the appellant be credited with two additional days for the pretrial confinement he served.

The approved findings and sentence are correct in law and fact and no error prejudicial to the substantial rights of the appellant occurred, aside from the error in pretrial confinement credit. Article 66(c), UCMJ, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (2000). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

FELECIA M. BUTLER, TSgt, USAF  
Chief Court Administrator