

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman MARIA D. BANG
United States Air Force

ACM S31506 (formerly 37031)

31 July 2008

Sentence adjudged 27 April 2007 by SPCM convened at Holloman Air Force Base, New Mexico. Military Judge: Grant L. Kratz.

Approved sentence: Bad-conduct discharge, forfeiture of \$500.00 pay per month for 6 months, and reduction to E-1.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland, Lieutenant Colonel Frank R. Levi, Major Shannon A. Bennett, and Captain Tiaundra Sorrell.

Appellate Counsel for the United States: Colonel Gerald R. Bruce.

Before

FRANCIS, HEIMANN, and THOMPSON
Appellate Military Judges

PER CURIAM:

This case is before this Court for review on its merits. Although not raised by the appellant, we note that the Court-Martial Order (CMO) fails to reflect the sentence as adjudged and approved by the convening authority. The CMO incorrectly states that the sentence includes “forfeiture of \$500.00 pay for 6 months”, whereas the sentence adjudged by members included forfeiture of \$500.00 pay *per month* for 6 months. [emphasis added]. In addition, the AF Form 1359, Report of Result of Trial, attached to the SJAR also incorrectly states that the sentence includes forfeiture of “\$500.00 pay for 6 months.”

Although the CMO and the AF Form 1359, Report of Result of Trial were incorrect, we conclude that the convening authority was not misled. The convening authority was specifically advised of the proper sentence in the SJAR, and thereafter

signed an action that approved the sentence as adjudged. The appellant's clemency submission also specifically referred to the sentence as adjudged by the members. Under these circumstances, the errors in the CMO and the Report of Result of Trial are administrative and harmless. See Article 59(a), UCMJ, 10 U.S.C. § 859(a); see also *United States v. Baker*, 54 M.J. 774, 776 (A.F. Ct. Crim. App. 2001). We conclude that the convening authority approved the adjudged sentence which includes the "pay per month" language. Accordingly, we order the promulgation of a corrected CMO, to reflect the adjudged and approved sentence of a bad-conduct discharge, forfeiture of \$500.00 pay per month for 6 months and reduction to the grade of E-1.

Conclusion

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

AFFIRMED.

Senior Judge HEIMANN did not participate.

OFFICIAL



STEVEN LUCAS, YA-02, DAF
Clerk of the Court