

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Senior Airman DAVID I. BELCHER II
United States Air Force

ACM 36322

16 May 2006

Sentence adjudged 25 April 2005 by GCM convened at Wright-Patterson Air Force Base, Ohio. Military Judge: Steven A. Hatfield (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 158 days, and reduction to E-1.

Appellate Counsel for Appellant: Lieutenant Colonel Mark R. Strickland and Captain Christopher S. Morgan.

Appellate Counsel for the United States: Colonel Gary F. Spencer.

Before

STONE, SMITH, and MATHEWS
Appellate Military Judges

PER CURIAM:

This case was submitted to us on its merits; however, we conclude post-trial processing must be reaccomplished because the trial counsel prepared and signed the staff judge advocate recommendation (SJAR). *See* Rule for Courts-Martial (R.C.M.) 1106. The trial counsel was disqualified from acting as a staff judge advocate (SJA) or legal officer to the convening authority, and the SJA's two-sentence indorsement* of the recommendation did not cure the error. *See* Article 6(c), UCMJ, 10 U.S.C. § 806(c); R.C.M. 1106(b); *United States v. Johnson-Saunders*, 48 M.J. 74 (C.A.A.F. 1998).

* "I reviewed the record of trial and the foregoing recommendation. I concur in the recommendation."

The convening authority's action is set aside. The record of trial is returned to The Judge Advocate General for submission to the convening authority for new post-trial processing, including a new SJAR. Thereafter, the record will be returned to this Court for further review under Article 66, UCMJ, 10 U.S.C. § 866.

OFFICIAL

LOUIS T. FUSS, TSgt, USAF
Chief Court Administrator