

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman REGGIE L. BERRY
United States Air Force

ACM 35168

10 August 2004

Sentence adjudged 11 February 2002 by GCM convened at Misawa Air Base, Japan. Military Judge: David F. Brash.

Approved sentence: Bad-conduct discharge, confinement for 7 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, Major Maria A. Fried, and Captain Diane M. Paskey.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Colonel Michael J. Cianci Jr., and Major John D. Douglas.

Before

STONE, GENT, and SMITH
Appellate Military Judges

PER CURIAM:

We examined the record of trial, the assignment of errors, and the government's reply thereto. We also reviewed a declaration by the appellant.

The appellant asserts that the military judge erred by not giving an instruction on defense of another. We find that the evidence did not raise this affirmative defense. We hold that the military judge did not err. *United States v. McDonald*, 57 M.J. 18, 20 (C.A.A.F. 2002); Rule for Courts-Martial 916(e)(3) and (e)(5).

The appellant raised five additional issues pursuant to *United States v. Grostefon*, 12 M.J. 431, 436 (C.M.A. 1982). We considered these issues and conclude they are without merit.

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). On the basis of the entire record, the findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court