

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Senior Airman STANLEY T. BROWN
United States Air Force

ACM S30869

27 April 2006

Sentence adjudged 8 March 2005 by SPCM convened at Kadena Air Base, Okinawa, Japan. Military Judge: Steven A. Hatfield (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 6 months, and reduction to E-1.

Appellate Counsel for Appellant: Lieutenant Colonel Mark R. Strickland and Major David P. Bennett.

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

Before

STONE, SMITH, and MATHEWS
Appellate Military Judges

PER CURIAM:

This case was submitted to us on its merits. In the addendum to his post-trial recommendation, the staff judge advocate (SJA) advised the convening authority he was not required to take action on the findings. Rule for Courts-Martial (R.C.M.) 1107(c). The SJA further advised the convening authority that, “[i]n this regard, note that the accused and his counsel have not asked that you take action on the findings; thus consideration of such action appears inapplicable here.”

Consideration of action on the findings did not become “inapplicable” because the appellant and his counsel did not request particular action. Action on the findings may not be warranted, but a convening authority may always consider whether to take such action. R.C.M. 1107(b)(1). The SJA’s advice on this point is error, but we find no

“colorable showing of possible prejudice.” See *United States v. Lee*, 52 M.J. 51, 53 (C.A.A.F. 1999) (quoting *United States v. Wheelus*, 49 M.J. 283, 289 (C.A.A.F. 1998)).

The approved 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). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

LOUIS T. FUSS, TSgt, USAF
Chief Court Administrator