

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

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UNITED STATES

v.

Senior Airman **CHAD R. CANDIFF**  
United States Air Force

**ACM S31319**

**04 August 2008**

Sentence adjudged 11 May 2007 by SPCM convened at Cannon Air Force Base, New Mexico. Military Judge: Gregory Gaudette.

Approved sentence: Bad-conduct discharge, confinement for 2 months, and reduction to E-1.

Appellate Counsel for the Appellant: Colonel Raymond J. Hardy, Jr., Lieutenant Colonel Mark R. Strickland, Major Shannon A. Bennett, and Captain Tiaundra Sorrell.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Major Matthew S. Ward, and Captain Ryan N. Hoback.

Before

BRAND, FRANCIS, and JACKSON  
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

Pursuant to his pleas, the appellant was found guilty of one specification of wrongful use of d-methamphetamine and one specification of wrongful use of marijuana, in violation of Article 112a, UCMJ, 10 U.S.C. § 912. A special court-martial comprised of officer members sentenced the appellant to a bad conduct discharge, confinement for two months, and a reduction to the grade of E-1. The convening authority approved the findings and the sentence. On appeal the appellant asks the court to “disapprove 30 days confinement from [his] sentence, or in the alternative, return the case to the convening authority for new post-trial processing” because there is no addendum to the Staff Judge Advocate’s Recommendation (SJAR) and there is no way to know if the convening

authority received or considered the appellant's clemency submissions. Finding no error, we affirm.

### *Discussion*

#### *Missing SJAR Addendum*

We review post-trial processing issues de novo. *United States v. Sheffield*, 60 M.J. 591, 593 (A.F. Ct. Crim. App. 2004) (citing *United States v. Kho*, 54 M.J. 63 (C.A.A.F. 2000)). Prior to taking final action, the convening authority must consider clemency matters submitted by the accused. *United States v. Craig*, 28 M.J. 321, 324-25 (C.M.A. 1989); Rule for Courts-Martial (R.C.M.) 1107(b)(3)(A)(iii). The preferred method of documenting a convening authority's review of clemency submissions is completion of an addendum to the SJAR. *United States v. Godreau*, 31 M.J. 809, 811 (A.F.C.M.R. 1990).

The addendum should: (1) inform the convening authority that the accused has submitted matters and they are attached to the addendum; (2) inform the convening authority that he must consider the matters submitted by the accused before taking action on the case; and (3) list as attachments matters submitted by the accused. *Id.* (citing *United States v. Foy*, 30 M.J. 664, 665 (A.F.C.M.R. 1990)). While such an addendum is not required, in its absence the court "must have some reliable means of verifying that the convening authority actually considered the appellant's submissions." *Godreau*, 31 M.J. at 812 (citing *Craig*, 28 M.J. at 325).

In response to appellate defense counsel's brief on this issue, appellate government counsel submitted an affidavit from the convening authority's staff judge advocate. The staff judge advocate's affidavit contains, as an attachment, the addendum to the SJAR. This affidavit and its accompanying attachment is an approved method to demonstrate compliance with R.C.M. 1107. *Godreau*, 31 M.J. at 812. The affidavit and the addendum to the SJAR clearly highlight that prior to taking action in the appellant's case, the convening authority considered the appellant's clemency submissions. Accordingly, we find that the convening authority received and considered the appellant's clemency submissions prior to taking action on the appellant's case.

### *Conclusion*

The findings and the 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 findings and the sentence are

AFFIRMED.

OFFICIAL



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