

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Staff Sergeant DONALD S. CORNELL
United States Air Force**

ACM 34932

7 November 2003

Sentence adjudged 30 November 2001 by GCM convened at Travis Air Force Base, California. Military Judge: Steven A. Gabrial.

Approved sentence: Bad-conduct discharge and reduction to E-3.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, Major Maria A. Fried, and Major Teresa L. Davis.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Lance B. Sigmon, and Major Shannon J. Kennedy.

Before

BRESLIN, MOODY, and GRANT
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignment of errors, and the government's reply thereto. We conclude the findings and sentence are correct in law and fact, and no error prejudicial to the substantial rights of the appellant was committed. Article 66(c), UCMJ, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000).

Any objection to the incompleteness of the appellant's personnel records was affirmatively waived. Rule for Courts-Martial (R.C.M.) 1001(b)(2). Even if it had not been waived, however, we find that the Air Force Form 77s were properly substituted for the missing performance reports. Therefore, we conclude that the personnel records were not incomplete and that the military judge did not err in admitting the appellant's adverse information. Air Force Instruction (AFI) 36-2406, *Officer and Enlisted Evaluation*

Systems, ¶ 4.2 (1 Jul 2000); Mil. R. Evid. 106; *United States v. Goodwin*, 21 M.J. 949 (A.F.C.M.R. 1986). In addition, the sentence adjudged and approved is not inappropriately severe. *United States v. Healey*, 26 M.J. 394 (C.M.A. 1988); *United States v. Snelling*, 14 M.J. 267 (C.M.A. 1982). On the basis of the entire record, the approved findings and sentence are

AFFIRMED.

OFFICIAL

HEATHER D. LABE
Clerk of Court