

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman Basic ALBERT S. CRUZ
United States Air Force

ACM S30866

20 July 2006

Sentence adjudged 18 March 2005 by SPCM convened at Little Rock Air Force Base, Arkansas. Military Judge: Mary M. Boone (sitting alone).

Approved sentence: Bad-conduct discharge and confinement for 4 months.

Appellate Counsel for Appellant: Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, and Captain Anthony D. Ortiz.

Appellate Counsel for the United States: Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Captain Kimani R. Eason.

Before

BROWN, MOODY, and JACOBSON
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignment of error, and the government's reply thereto. Specification 1 of Charge II originally alleged divers wrongful use of marijuana between 25 January 2003 and 29 November 2004. Prior to arraignment, the parties made a pen and ink change to the charge sheet, striking 25 January 2003 and substituting 11 September 2004. The military judge convicted the appellant, inter alia, of the amended charge, pursuant to his pleas. However, the promulgating order reflects the 25 January 2003 date.

The defense asserts that the 25 January 2003 date cited in the promulgating order is in error and the government concedes. We agree that the promulgating order is incorrect. Preparation of a corrected court-martial order, properly reflecting the court-martial's findings of Specification 1 of Charge II is hereby directed. *See United States v. Smith*, 30 M.J. 1022, 1028 (A.F.C.M.R. 1990), *aff'd*, 33 M.J. 114 (C.M.A. 1991).

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