

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class ERIC S. DAVIS
United States Air Force**

ACM S30507

22 November 2005

Sentence adjudged 1 October 2003 by SPCM convened at Ellsworth Air Force Base, South Dakota. Military Judge: R. Scott Howard and Timothy D. Wilson.

Approved sentence: Bad-conduct discharge, confinement for 90 days, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Carlos L. McDade, Major Terry L. McElyea, Major Andrew S. Williams, and Major Jennifer K. Martwick.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Lieutenant Colonel William B. Smith.

Before

BROWN, MOODY, and FINCHER
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignments of error, and the government's answer. The appellant contends the evidence is factually and legally insufficient to sustain his conviction for these offenses. We disagree and affirm.

After carefully weighing the evidence in the entire record of trial, we are convinced of the appellant's guilt beyond a reasonable doubt. *See United States v. Turner*, 25 M.J. 324 (C.M.A. 1987). We likewise find the evidence legally sufficient to support conviction. Considering the evidence in the light most favorable to the prosecution, we hold a reasonable factfinder could have found all of the essential elements of the offenses beyond a reasonable doubt. *Id.* at 324 (citing *Jackson v.*

Virginia, 443 U.S. 307, 319 (1979)). We reach this conclusion drawing every reasonable inference from the evidence in favor of the prosecution. See *United States v. Davis*, 56 M.J. 299, 300 (C.A.A.F. 2002).

We have also examined the appellant's contention that a new action is necessary because the action failed to mention the waiver of automatic forfeitures. We hold that because the waiver was fully effected, no new action is necessary. See *United States v. Robinson*, 56 M.J. 541, 548 (A.F. Ct. Crim. App. 2001), *aff'd*, 58 M.J. 429 (C.A.A.F. 2003), *cert. denied*, 540 U.S. 985 (2003). 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 findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court