

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Senior Airman CHRISTOPHER M. DENSMORE
United States Air Force**

ACM S31034

30 November 2006

Sentence adjudged 3 November 2005 by SPCM convened at Charleston Air Force Base, South Carolina. Military Judge: W. Thomas Cumbie (sitting alone).

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

Appellate Counsel for Appellant: Colonel Nikki A. Hall and Major John N. Page III.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Lieutenant Colonel Robert V. Combs, and Major Kimani R. Eason.

Before

**BROWN, SCHOLZ, and BECHTOLD
Appellate Military Judges**

PER CURIAM:

The appellant was convicted, in accordance with his pleas, of one specification of wrongful use of marijuana and one specification of wrongful use of cocaine, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. His approved sentence consists of a bad-conduct discharge, confinement for 90 days, and reduction to E-1.

On appeal, he contends that he is entitled to new post-trial processing because there is no evidence in the record that the convening authority reviewed his clemency matters, as required by Rule for Courts-Martial 1107(b)(3)(A)(iii). Unfortunately, the staff judge advocate failed to prepare an addendum to his

recommendation as this Court urged in *United States v. Foy*, 30 M.J. 664, 665-66 (A.F.C.M.R. 1990). As a result, the only indication of what was submitted in support of the appellant's clemency request is the list of attachments in the trial defense counsel's petition for clemency. Additionally, although the convening authority initialed both the clemency petition submitted by the trial defense counsel and the appellant's clemency request, he did not annotate or acknowledge any of the other documents submitted.

The government responded to the allegation of error by supplementing the record with an affidavit from the convening authority establishing that the convening authority did, in fact, consider all matters submitted as part of the appellant's clemency package prior to taking action. Based on that affidavit, we are satisfied that the convening authority properly reviewed the appellant's clemency matters. See *United States v. Godreau*, 31 M.J. 809, 812 (A.F.C.M.R. 1990).

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

JEFFREY L. NESTER
Clerk of Court