UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman First Class JEREMY L. DOUGHERTY
United States Air Force

ACM S30312

28 March 2005

Sentence adjudged 16 January 2003 by SPCM convened at Hanscom Air Force Base, Massachusetts. Military Judge: Gregory P. Holder (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 40 days, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, and Major L. Martin Powell.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Robert V. Combs, and Major Tracey L. Printer.

Before

STONE, GENT, and SMITH
Appellate Military Judges

PER CURIAM:

We have carefully reviewed the record of trial, the appellant's single assignment of error, and the government's response. The appellant asserts that post-trial processing in his case was defective because there is no evidence the convening authority either received or considered the appellant's clemency submissions. *See* Article 60(c)(2), UCMJ, 10 U.S.C. § 860(c)(2); Rules for Courts-Martial (R.C.M.) 1105, 1106, and 1107(b)(3)(A)(iii). *See also United States v. Craig*, 28 M.J. 321, 325 (C.M.A. 1989) (record of trial must clearly show that the convening authority did in fact consider any post-trial matters submitted by the accused). He asks this Court to set aside the action and return the case for new post-trial processing or, in the alternative, to set aside his bad-conduct discharge. We disagree and affirm.

In reaching this decision, we have considered the post-trial affidavits from the convening authority and his staff judge advocate. *See United States v. Blanch*, 29 M.J. 672 (A.F.C.M.R. 1989). These affidavits clearly establish that the convening authority received and considered the appellant's clemency submissions. The failure to individually list the appellant's clemency submissions on the addendum to the staff judge advocate's recommendation was an administrative oversight, as was the convening authority's failure to affirmatively annotate the documents to indicate he had received and considered the post-trial submissions. *See United States v. McKinley*, 48 M.J. 280, 283 (C.A.A.F. 1998). We are convinced that the information required by R.C.M. 1106(d)(3)(C) was supplied to the convening authority and that he in fact considered this information.

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

FELECIA M. BUTLER, TSgt, USAF
Chief Court Administrator