

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman JASON A. DUNHAM
United States Air Force**

ACM S30515

23 November 2005

Sentence adjudged 15 December 2003 by SPCM convened at Tinker Air Force Base, Oklahoma. Military Judge: James L. Flanary (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 9 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Colonel Carlos L. McDade, Major Terry L. McElyea, and Major Andrew S. Williams.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Major Lane A. Thurgood.

Before

BROWN, MOODY, and FINCHER
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignment of error, and the government's answer. The appellant argues he should receive either new post-trial processing or meaningful sentence relief because the record of trial contains no evidence that the convening authority considered any of the appellant's clemency submissions before taking action on the sentence.

The appellant's argument has been overtaken by events. Pursuant to Rule 23 of the Courts of Criminal Appeals, Rules of Practice and Procedure, the Government moved to attach the 31 December 2003 addendum to the staff judge advocate's recommendation. We granted the motion. The addendum advised the convening authority that the defense

had submitted clemency matters and that he must consider them prior to taking action in the case. The addendum also attached the clemency matters and listed them. Because the addendum fulfilled these criteria, we presume the regularity of the convening authority's consideration of the appellant's clemency matters prior to taking his action. See *United States v. Godreau*, 31 M.J. 809, 811 (A.F.C.M.R. 1990). As a result, the appellant's complaint is moot.

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