

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class ERICK R. FABIAN
United States Air Force**

ACM 34903

5 August 2003

Sentence adjudged 12 December 2001 by GCM convened at Seymour Johnson Air Force Base, North Carolina. Military Judge: Mary M. Boone (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 19 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, Major Jefferson B. Brown, and Major Teresa L. Davis.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Lance B. Sigmon, and Major Jennifer R. Rider.

Before

BRESLIN, STONE, and MOODY
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignment of errors, and the government's answer thereto, and have concluded the findings and sentence are correct in law and fact, the sentence is appropriate, and no error prejudicial to the substantial rights of the appellant was committed. Article 66(c), UCMJ, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (2000).

The allegations of error raised under *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), are without merit. Larceny is a crime against possession; therefore the appellant's plea to wrongfully taking \$800.00 from the possession of First Citizen's Bank was provident. *Manual for Courts-Martial, United States*, Part IV, ¶ 46(c)(1) and

(1)(h)(vi) (2000 ed.); *United States v. Duncan*, 30 M.J. 1284 (N.M.C.M.R. 1990). Each illegal transaction was a separate offense; grouping like offenses did not result in an unreasonable multiplication of charges. The appellant's failure to object to the admission of Prosecution Exhibit 5 forfeited any objection, absent plain error. Mil. R. Evid. 103(a)(1). The evidence was clearly relevant as proof of the manner in which the appellant wrongfully obtained the credit cards to commit the offenses to which he pled guilty. *See* Rule for Courts-Martial 1001(b)(4). Accordingly, the findings and sentence are

AFFIRMED.

OFFICIAL

HEATHER D. LABE
Clerk of Court