

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

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UNITED STATES

v.

**Airman First Class JUSTIN M. FORD**  
**United States Air Force**

**ACM S31318**

**24 September 2008**

Sentence adjudged 03 May 2007 by SPCM convened at Pope Air Force Base, North Carolina. Military Judge: Christopher A. Santoro (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 2 months, forfeiture of \$500.00 pay per month for 4 months, and reduction to E-1.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland and Captain Tiaundra D. Sorrell.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Major Matthew S. Ward, and Major Brendon K. Tukey.

Before

WISE, BRAND, and HELGET  
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

In accordance with his pleas, the appellant was convicted of one specification of wrongful drug use on divers occasions and one specification of wrongful drug distribution on divers occasions, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. The approved sentence consists of a bad-conduct discharge, confinement for two months, forfeitures of \$500 pay per month for four months, and reduction to E-1.

The issue on appeal is whether this Court should provide appropriate relief where there is no addendum to the staff judge advocate's recommendation (SJAR) and there is

no way to know whether the convening authority received or considered the appellant's clemency submission. Finding no merit with the issue, we affirm.

### *Discussion*

The SJAR was completed on 21 May 2007 and served on the trial defense counsel on 23 May 2007 and on the appellant on 24 May 2007. The appellant submitted his clemency matters on 24 May 2007. In the record of trial (ROT), those submissions are located with the SJAR. There was no addendum to the SJAR in the ROT. On each page of the appellant's submissions, there is a "z" in the lower right-hand corner. The convening authority's name is Colonel Zadalis. The convening authority signed the action on 24 May 2007.\*

The government appellate counsel provided this Court with an affidavit from the staff judge advocate and with a copy of the addendum to the SJAR, dated 24 May 2007. In the affidavit, the staff judge advocate states that he gave the addendum to the SJAR to the convening authority on 24 May 2007, before the convening authority took action in the case. Further, the staff judge advocate is certain that the convening authority considered the addendum to the SJAR and all of the appellant's clemency matters in this case because he placed his initial in the lower right-hand corner of each page, as was his standard practice.

We review post-trial processing issues de novo. *United States v. Sheffield*, 60 M.J. 591, 593 (A.F. Ct. Crim. App. 2004) (citing *United States v. Kho*, 54 M.J. 63 (C.A.A.F. 2000)). Prior to taking final action, the convening authority must consider clemency matters submitted by the accused under Rule for Courts-Martial (R.C.M.) 1105. R.C.M. 1107(b)(3); *United States v. Craig*, 28 M.J. 321, 324-25 (C.M.A. 1989). The government is permitted to "enhance the 'paper trail' and show that the information in question was indeed transmitted to and considered by the convening authority." *United States v. Blanch*, 29 M.J. 672, 673 (A.F.C.M.R. 1989). We find the convening authority considered the appellant's entire clemency submission prior to taking action.

### *Conclusion*

The approved findings and the 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).

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\* The Court notes that the court-martial order is not dated.

Accordingly, the approved findings, and sentence, are

AFFIRMED.

OFFICIAL



STEVEN LUCAS, YA-02, DAF  
Clerk of the Court