

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class KEVIN M. FRAME
United States Air Force**

ACM S30877

26 April 2006

Sentence adjudged 4 April 2005 by SPCM convened at Moody Air Force Base, Georgia. Military Judge: Daryl E. Trawick (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 3 months, and reduction to E-1.

Appellate Counsel for Appellant: Lieutenant Colonel Mark R. Strickland and Captain Anthony D. Ortiz.

Appellate Counsel for the United States: Lieutenant Colonel Gary F. Spencer.

Before

STONE, SMITH, and MATHEWS
Appellate Military Judges

PER CURIAM:

This case was submitted to this Court for review on its merits. We note, however, that during the providency inquiry into the appellant's plea of guilty to divers use of cocaine, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a, the military judge incorrectly advised the appellant that the maximum punishment included forfeiture of two-thirds pay and allowances per month for 12 months. Allowances are not subject to forfeiture in special courts-martial. Rule for Courts-Martial 201(f)(2)(B)(i). Nonetheless, we conclude the appellant's pleas were provident and he was not prejudiced by the error. *See United States v. Poole*, 26 M.J. 272, 274 (C.M.A. 1988).

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

LOUIS T. FUSS, TSgt, USAF
Chief Court Administrator