

**UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

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**UNITED STATES**

**v.**

**Airman First Class BRADLEY W. FREDERICK  
United States Air Force**

**ACM S30194**

**25 February 2004**

Sentence adjudged 26 July 2003 by SPCM convened at Spangdahlem Air Base, Germany. Military Judge: Linda S. Murnane (sitting alone).

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

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, and Captain James M. Winner.

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

Before

**PRATT, MALLOY, and GRANT**  
Appellate Military Judges

**PER CURIAM:**

We have examined the record of trial, the assignment of error, and the government's reply thereto. The staff judge advocate (SJA) is required to include, in his recommendation to the convening authority, information concerning a recommendation for clemency by the sentencing authority, which is "made in conjunction with the announced sentence." Rule for Courts-Martial (R.C.M.) 1106(d)(3)(B); *United States v. Lee*, 50 M.J. 296 (C.A.A.F. 1999); *United States v. Clear*, 34 M.J. 129 (C.M.A. 1992). However, that requirement does not extend to recommendations by the sentencing authority which, as in this case, are made at some time after trial and are included as part of the appellant's clemency submission to the convening authority. R.C.M. 1105(b)(2)(D) and its Discussion. *See also* R.C.M. 1106(d)(3)(B), Discussion.

In any event, the addendum to the SJA's recommendation in this case included a specific reference to the appellant's request for the Return To Duty Program (RTDP) and, as listed attachments, both the appellant's request and the military judge's clemency letter. Further, the record reflects that the convening authority was already anticipating these submissions. He had personally granted a defense request for an extension of time specifically justified by the need to complete the appellant's RTDP request and to obtain the military judge's clemency letter. We hold that the SJA complied with the requirements of R.C.M. 1106(d)(3) and (f)(7) and that the appellant suffered no prejudice. Article 59(a), UCMJ, 10 U.S.C. § 859(a).

We conclude the 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

HEATHER D. LABE  
Clerk of Court