

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman Basic CANDICE F. HALL
United States Air Force**

ACM 34833

24 July 2002

Sentence adjudged 21 August 2001 by GCM convened at Bolling Air Force Base, District of Columbia. Military Judge: Mary M. Boone (sitting alone).

Approved sentence: Bad-conduct discharge and confinement for 100 days.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Lieutenant Colonel Brandon A. Burnett, and Major Jeffrey A. Vires.

Appellate Counsel for the United States: Colonel Anthony P. Dattilo.

Before

**BURD, ROBERTS, and PECINOVSKY
Appellate Military Judges**

PER CURIAM:

In our review of the record of trial in this case, which was submitted to us on its merits, we have discovered errors in four important documents in the record, which we will briefly address. We find the errors harmless. Article 59(a), UCMJ, 10 U.S.C. § 859(a).

The charge sheet indicates that this case was referred, on 23 July 2001, for trial to the general court-martial convened by "Special Order AC-14, dated 23 July 2001." This information was parroted by the trial counsel at the initial session of the court-martial held on 17 August 2001 and then again when the court-martial resumed on 21 August 2001. Special Order AC-14 is included in the record of trial, but it is neither dated nor signed for the commander.

The convening authority's first indorsement to the pretrial advice of the staff judge advocate, which is contained in the record as an allied paper, exposes further error in the convening order and in the charge sheet. That indorsement, signed by the convening authority on 20 July 2001, referred the case to trial by general court-martial and detailed the members.

The obvious conclusion from reviewing these documents is that the case was referred to trial on 20 July 2001, not 23 July, and that 20 July 2001 should have been the date entered in the referral section of the charge sheet and on Special Order AC-14. Additionally, the signature of the staff judge advocate for the commander should have been placed on the convening order to properly authenticate the order. *See* Rule for Courts-Martial 504(d); *Manual for Courts-Martial, United States (MCM)*, A6 (2000 ed.); Air Force Instruction (AFI) 51-201, *Administration of Military Justice*, ¶ 5.8 (2 Nov 1999).

We find none of these errors to be jurisdictional. *United States v. Allgood*, 41 M.J. 492, 495 (1995) and cases cited therein. Moreover, the harmlessness of the errors becomes apparent when the first indorsement is compared to the convening order—the members detailed to this specific case are the members listed on the convening order. Art. 59(a), UCMJ.

Additionally, the court-martial order (CMO) and report of result of trial (RRT) contain errors regarding the plea to and disposition of Charge II and the Specification of Charge II. The CMO erroneously states the plea and finding on Charge II as “dismissed.” The CMO is erroneously silent as to the plea and finding on the Specification of Charge II. The RRT also states “dismissed” for the pleas and findings but makes no distinction between Charge II and the Specification of Charge II. The RRT simply refers to “Article 134” and then describes the offense that is the Specification of Charge II.

What actually occurred at trial regarding Charge II and the Specification of Charge II is that the appellant pled not guilty to both Charge II and the Specification of Charge II and both were dismissed after arraignment. These facts should have been accurately reported in the RRT and the CMO. *See* AFI 51-201, ¶¶ 9.1, 10.4. These errors are harmless in part because the essential fact that the offense was dismissed is recorded in both documents. However, the CMO must be corrected to be accurate. *See* AFI 51-201, ¶ 10.1.6.

The approved finding of guilty 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. Turner*, 25 M.J. 324, 325 (C.M.A. 1987). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

FELECIA M. BUTLER, TSgt, USAF
Chief Court Administrator