

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class TIMOTHY J. HODGE
United States Air Force**

ACM S31067

30 November 2006

Sentence adjudged 17 January 2006 by SPCM convened at Langley Air Force Base, Virginia. Military Judge: W. Thomas Cumbie (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 9 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, Major Anniece Barber, and Captain Chadwick A. Conn.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Lieutenant Colonel Robert V. Combs, and Major Kimani R. Eason.

Before

BROWN, MATHEWS, and FRANCIS
Appellate Military Judges

PER CURIAM:

We reviewed the record of trial, the appellant's assignment of error, and the government's reply thereto. Citing Rule for Courts-Martial (R.C.M.) 1107(b)(3), the appellant asks for new post-trial processing of his case, alleging there is no evidence the convening authority either received or considered the appellant's post-trial clemency submissions.

In response, the government provided this Court with the memorandum from the convening authority's staff judge advocate (SJA) used to forward the appellant's clemency matters to the convening authority. The memorandum

advises, “you are required to review the clemency matters submitted by the [appellant] and the record of trial before taking action,” and therefore substantially complies with this Court’s guidance in *United States v. Foy*, 30 M.J. 664, 665-66 (A.F.C.M.R. 1990). Pursuant to this Court’s subsequent ruling in *United States v. Godreau*, 31 M.J. 809, 812 (A.F.C.M.R. 1990), the government also provided to this Court, an affidavit from the SJA attesting that the convening authority did, in fact, read all of the appellant’s clemency submissions. In light of these documents, and considering the record as a whole, we are convinced the government complied with R.C.M. 1107 and the mandate of our superior appellate court in *United States v. Craig*, 28 M.J. 321 (C.M.A. 1989

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 findings and sentence are

AFFIRMED.

OFFICIAL

JEFFREY L. NESTER
Clerk of Court