

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class CLIFTON JORDAN
United States Air Force**

ACM 35396

23 March 2004

Sentence adjudged 10 October 2002 by GCM convened at Eglin Air Force Base, Florida. Military Judge: Sharon A. Shaffer (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 14 months, forfeiture of all pay and allowances, 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 and Lieutenant Colonel Jennifer R. Rider.

Before

STONE, MOODY, AND JOHNSON-WRIGHT
Appellate Military Judges

PER CURIAM:

The appellant was convicted, in accordance with his pleas, of wrongful distribution of marijuana on divers occasions, wrongful use of marijuana on divers occasions, and wrongful introduction of marijuana onto a military installation, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. His approved sentence included a bad-conduct discharge, confinement for 14 months, forfeiture of all pay and allowances, and reduction to E-1. He raises one issue for our review and asks this Court to return his case to the convening authority for a new action. He contends that the staff judge advocate improperly introduced “new matter” into post-trial processing. We disagree.

New matter does not ordinarily include matters included in the record of trial or “any discussion by the staff judge advocate or legal officer of the correctness of the initial defense comments on the recommendation.” Rule for Courts-Martial 1106(f)(7) and its

Discussion. Moreover, even if the SJA's comment was "new matter" that was neither neutral nor trivial, the appellant has failed to establish a "colorable showing of possible prejudice." *United States v. Chatman*, 46 M.J. 321, 323-24 (C.A.A.F. 1997).

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 findings and sentence are

AFFIRMED.

OFFICIAL

FELECIA M. BUTLER, TSgt, USAF
Chief Court Administrator