

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

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**UNITED STATES**

**v.**

**Staff Sergeant TIMOTHY J. LAJAUNIE**  
**United States Air Force**

**ACM 35104**

**7 October 2003**

Sentence adjudged 6 August 2001 by GCM convened at Peterson Air Force Base, Colorado. Military Judge: Patrick M. Rosenow (sitting alone).

Approved sentence: Dishonorable discharge, confinement for 54 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 Major Maria A. Fried.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Lance B. Sigmon, and Major Linette I. Romer.

Before

**BRESLIN, STONE, and MOODY**  
Appellate Military Judges

**PER CURIAM:**

We have examined the record of trial, the appellant's assignment of errors, including that raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), and the government's reply thereto.

Although technically incorrect because the post-trial action did not disapprove, modify, or suspend adjudged forfeitures, *United States v. Emminizer*, 56 M.J. 441 (2002), it clearly reflects the convening authority's intention to waive the mandatory forfeiture of pay and allowances under Article 58b, UCMJ, 10 U.S.C. § 858b, for the benefit of the appellant's dependents. Furthermore, the record provides no basis to believe that the dependents were not paid. We hold that the action was effective; therefore, there is no cause to remand the case for a new action or to disapprove forfeitures. *United States v. Medina*, ACM 34783 (A.F. Ct. Crim. App. 11 Sep 2003). In addition, the sentence

adjudged and approved is not inappropriately severe. *United States v. Healey*, 26 M.J. 394, 395 (C.M.A. 1988); *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982). On the basis of the entire record, we conclude the approved findings and sentence are correct in law and fact, and no error prejudicial to the substantial rights of the appellant was committed. Article 66(c), UCMJ, 10 U.S.C. § 866(c), *United States v. Reed*, 54 M.J. 37 (41) (2000). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

HEATHER D. LABE  
Clerk of Court