

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

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**UNITED STATES**

**v.**

**Airman First Class NICHOLAS J. MALLETT  
United States Air Force**

**ACM 35505 (f rev)**

**31 May 2006**

Sentence adjudged 14 December 2005 by GCM convened at Hurlburt Field, Florida. Military Judge: Donald A. Plude (sitting alone).

Approved sentence: Confinement for 5 months and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Lieutenant Colonel Mark R. Strickland, Major Terry L. McElyea, Major L. Martin Powell, Captain John S. Fredland, and Captain Anthony D. Ortiz.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Major Kevin P. Stiens.

Before

**STONE, SMITH, and MATHEWS**  
Appellate Military Judges

**UPON FURTHER REVIEW**

**PER CURIAM:**

This case is before our Court for further review because the sentence was set aside. *United States v. Mallett*, 61 M.J. 761 (A.F. Ct. Crim. App. 2005). This Court affirmed the findings, but set aside the sentence because of improper comments made by the trial counsel during his sentencing argument. A rehearing was authorized. On 14 December 2005, a sentence rehearing was conducted. This case came before us for further review with no additional assignments of error asserted.

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 approved findings and sentence are

AFFIRMED.

OFFICIAL

THOMAS T. CRADDOCK, SSgt, USAF  
Court Administrator