

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class OSCAR MEJORADO JR.
United States Air Force**

ACM S31114

5 September 2006

Sentence adjudged 11 April 2006 by SPCM at Andrews Air Force Base, Maryland. Military Judge: Ronald A. Gregory (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 5 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, and Captain Christopher L. Ferretti.

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

Before
ORR, MATHEWS, and THOMPSON
Appellate Military Judges

PER CURIAM:

We examined the record of trial, the assignment of error, and the government's reply thereto. The appellant asserts that the convening authority's action is erroneous because it does not convey the convening authority's intent to approve the appellant's request for entry into the Return to Duty Program (RTDP). Specifically, the appellant contends that the action is ambiguous because it does not include language directing the appellant's entry into the RTDP as required by Air Force Instruction 31-205, *The Air Force Corrections System*, ¶ 11.6.6.1 (7 Apr 2004). As a result, corrections officers have denied his entry into the RTDP. The government concedes error and asks this Court to order the correction of the convening authority's action.

Based on the appellant's assertion and the affidavit submitted by the convening authority, we are convinced that the convening authority intended to direct the appellant's

entry into the RTDP. Unfortunately, the convening authority's action does not convey his intent. Because the action fails to unambiguously state the intent of the convening authority, it must be corrected. Pursuant to Rule for Courts-Martial (R.C.M.) 1107(g) we may instruct a convening authority to withdraw an incomplete, ambiguous, or erroneous action and substitute a corrected action for the original action.

Accordingly, we return the record of trial to The Judge Advocate General for remand to the convening authority to withdraw the erroneous action and substitute a corrected action and promulgating order. Thereafter, Article 66, UCMJ, 10 U.S.C. § 866 shall apply.

OFFICIAL

LOUIS T. FUSS, TSgt, USAF
Chief Court Administrator