

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Staff Sergeant FEDERICO A. NICHOLAS
United States Air Force

ACM 35197

13 February 2004

Sentence adjudged 13 May 2002 by GCM convened at MacDill Air Force Base, Florida. Military Judge: Thomas G. Crossan Jr. (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 36 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, and Major Antony B. Kolenc.

Appellate Counsel for the United States: Colonel LeEllen Coacher and Lieutenant Colonel Lance B. Sigmon.

Before

STONE, MOODY, and JOHNSON-WRIGHT
Appellate Military Judges

PER CURIAM:

We have carefully considered the assignment of errors raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), and find they are without merit. The appellant waived any issue relating to the propriety of the referral process, absent plain error. Rule for Courts-Martial (R.C.M.) 905(e). Absent plain error, the appellant also waived any issue relating to the rejection of his pretrial agreement; a convening authority has "sole discretion" in deciding whether to accept or reject an offer of a pretrial agreement. R.C.M. 705(d)(3). Finally, failure to timely object to a sentencing argument is waiver, absent plain error. R.C.M. 1001(g).

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

LAQUITTA J. SMITH
Documents Examiner