

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class CHRISTOPHER B. NOLAN
United States Air Force**

ACM 35979

26 January 2006

Sentence adjudged 14 May 2004 by GCM convened at Malmstrom Air Force Base, Montana. Military Judge: Nancy J. Paul.

Approved sentence: Bad-conduct discharge and reduction to E-1.

Appellate Counsel for Appellant: Colonel Carlos L. McDade, Lieutenant Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, Major Sandra K. Whittington, Major Karen L. Hecker, Captain David P. Bennett.

Appellate Counsel for the United States: Lieutenant Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Captain Kimani R. Eason.

Before

BROWN, MOODY, and FINCHER
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignment of error, and the government's response thereto. Finding no error, we affirm.

The appellant contends that the evidence is legally and factually insufficient to sustain his conviction of the Specification and Charge of aggravated assault, in violation of Article 128, UCMJ, 10 U.S.C. § 928. The test for legal sufficiency is whether, considering the evidence in the light most favorable to the government, any rational trier of fact could have found the elements of the offense beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *United States v. Quintanilla*, 56 M.J. 37, 82 (C.A.A.F. 2001); *United States v. Turner*, 25 M.J. 324, 325 (C.M.A. 1987). The test for factual sufficiency is whether, after weighing the evidence in the record of trial and

making allowances for not having personally observed the witnesses, we are ourselves convinced of the appellant's guilt beyond a reasonable doubt. *Turner*, 25 M.J. at 325.

We conclude there is overwhelming evidence in the record of trial to support the court-martial's finding of guilty of aggravated assault upon the victim, RZ, when the appellant brandished a loaded firearm in his presence on 14 December 2003. We are also convinced of the appellant's guilt beyond a reasonable doubt. *See Id.*; Article 66(c), UCMJ, 10 U.S.C. § 866(c). *See also United States v. Weatherspoon*, 49 M.J. 209, 211 (C.A.A.F. 1998); *Manual for Courts-Martial, United States (MCM)*, Part IV, ¶ 54b(4)(a) (2005 ed.).¹

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; *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court

¹ This provision is the same in the previous edition of the *Manual* that was in effect at the time of trial.