

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class WENDELL M. PORTER JR.
United States Air Force**

ACM 35341 (f rev)

14 July 2005

Sentence adjudged 6 August 2002 by GCM convened at Nellis Air Force Base, Nevada. Military Judge: Timothy D. Wilson (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 6 months,¹ forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Colonel Carlos L. McDade, Major Terry L. McElyea, Major Sandra K. Whittington, Captain Diane M. Paskey, and Captain David P. Bennett.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Jennifer R. Rider, Lieutenant Colonel Gary F. Spencer, and Major Shannon J. Kennedy.

Before

STONE, GENT, and SMITH
Appellate Military Judges

UPON FURTHER REVIEW

PER CURIAM:

This case is before our Court for further review because the original action was set aside. *United States v. Porter*, ACM 35341 (A.F. Ct. Crim. App. 27 Aug 2004) (unpub. op.). This court returned the case to The Judge Advocate General for remand to the convening authority for a new action consistent with the terms of the pretrial agreement. On 17 December 2004, the convening authority completed a new action to comply with our holding.

¹ The portion of confinement remaining to be served after 25 November 2002 was remitted.

The appellant submitted the record and new action for further review on its merits. Our review discloses no substantive error. 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

ANGELA M. BRICE
Clerk of Court