

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class DENNIS G. ROYKA
United States Air Force**

ACM S30720

22 February 2006

Sentence adjudged 16 June 2004 by SPCM convened at Moody Air Force Base, Georgia. Military Judge: Harvey A. Kornstein (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 113 days, forfeiture of \$795.00 pay per month for 4 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Raymond J. Hardy, Jr., Lieutenant Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, and Major John N. Page III.

Appellate Counsel for the United States: Lieutenant Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Major Matthew S. Ward.

Before

STONE, SMITH, and MATHEWS
Appellate Military Judges

PER CURIAM:

We have reviewed the record of trial, the appellant's assignment of error, and the government's response thereto. The appellant correctly observes that the record contains no evidence that his post-trial clemency matters were considered by the convening authority prior to action, as required by Rule for Courts-Martial (R.C.M.) 1107. The government concedes the error.

The action of the convening authority is set aside. The record is returned to The Judge Advocate General of the Air Force for remand to the convening authority for new post-trial processing in compliance with R.C.M. 1107. Thereafter, Article 66(b), UCMJ, 10 U.S.C. § 866(b), will apply.

OFFICIAL

LOUIS T. FUSS, TSgt, USAF
Chief Court Administrator