

**UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

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**UNITED STATES**

**v.**

**Airman First Class JOSHUA M. SAHD  
United States Air Force**

**ACM 35056**

**12 January 2005**

Sentence adjudged 19 December 2001 by GCM convened at Robins Air Force Base, Georgia. Military Judge: Sharon A. Shaffer (sitting alone).

Approved sentence: Dishonorable discharge, confinement for 3 years, 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 Patricia A. McHugh, Major Sandra K. Whittington, and Major James M. Winner.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Lance B. Sigmon, and Major John D. Douglas.

Before

PRATT, ORR, and MOODY  
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignments of error, and the government's reply thereto. The appellant asserts two errors: (1) That the evidence is factually insufficient to sustain his convictions for aggravated assault and maiming; and (2) That the staff judge advocate erred by failing to serve the addendum to the staff judge advocate's recommendation (SJAR) on the defense.

We find no merit in the first contention. After weighing the evidence, and making allowances for not having personally observed the witnesses, we are convinced beyond a reasonable doubt that the appellant is guilty of both aggravated assault and maiming. *United States v. Turner*, 25 M.J. 324, 325 (C.M.A. 1987); Rule for Courts-Martial

(R.C.M.) 916(e). Furthermore, in addition to factual sufficiency, we find legal sufficiency, i.e., the evidence is such that a rational factfinder could have found the appellant guilty of all elements of the offenses beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000).

However, we do find clear merit in the appellant's second contention. As the government concedes on appeal, the addendum to the SJAR should have been served on the appellant and his counsel, affording an opportunity to submit comments thereon. R.C.M. 1106(f)(7); *United States v. Sullivan*, 42 M.J. 360 (C.A.A.F. 1995); *United States v. Gilbreath*, 57 M.J. 57 (C.A.A.F. 2002); *United States v. Catalani*, 46 M.J. 325 (C.A.A.F. 1997). Accordingly, the action of the convening authority is set aside.<sup>1</sup> The record is returned to The Judge Advocate General for remand to the convening authority for a new post-trial review and action. Thereafter, Article 66(c), UCMJ, 10 U.S.C. § 866(c), will apply.

OFFICIAL

ANGELA M. BRICE  
Clerk of Court

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<sup>1</sup> We note, for correction in the new action and promulgating order, that the current action and promulgating order erroneously reflect the appellant as a Senior Airman instead of as an Airman First Class.