

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Captain OSCAR H. SALVAT
United States Air Force**

ACM 35427

30 September 2004

Sentence adjudged 20 May 2002 by GCM convened at Moody Air Force Base, Georgia. Military Judge: James L. Flanary (sitting alone).

Approved sentence: Dismissal, confinement for 15 months, and forfeiture of all pay and allowances.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, and Captain L. Martin Powell.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Robert V. Combs, and Lieutenant Colonel David N. Cooper.

Before

PRATT, ORR, and MOODY
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignment of error, and the government's reply thereto. We conclude that the Secretary of the Air Force did not divest the commander of 9th Air Force Provisional (9 AF(P)/CC) of authority to convene general courts-martial. *See United States v. Hardy*, 60 M.J. 620 (A.F. Ct. Crim. App. 2004). Therefore, we hold that 9 AF(P)/CC could properly take action in the case sub judice and that the appellant is not entitled to new post-trial processing.

We conclude that 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). On the basis of the entire record, the findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court