

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Senior Airman JESUS A. SOLIS
United States Air Force

ACM 35321

25 May 2004

Sentence adjudged 26 June 2002 by GCM convened at Schriever Air Force Base, Colorado. Military Judge: Patrick M. Rosenow (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 1 year, and reduction to E-1.¹

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, and Captain James M. Winner.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Lance B. Sigmon, and Major James K. Floyd.

Before

STONE, MOODY, and JOHNSON
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the three assignments of error, and the government's reply thereto. As to whether there was an unreasonable multiplication of charges, we conclude the issue was forfeited by the appellant's failure to object. Rule for Courts-Martial (R.C.M.) 905(e); *United States v. Quiroz*, 55 M.J. 334, 338 (C.A.A.F. 2001). Even if not forfeited, and considering the factors set forth in *Quiroz*, we conclude the offenses do not constitute an unreasonable multiplication of charges. As to whether the trial counsel's argument was improper, we conclude that the appellant's failure to object waived the issue. R.C.M. 1001(g); *United States v. Sherman*, 32 M.J. 449 (C.M.A. 1991). In any event, the argument did not materially prejudice the substantial rights of the appellant. Article 59(a), UCMJ, 10 U.S.C. § 859(a); *United States v. Baer*, 53 M.J.

¹ By action dated 24 February 2004, the Air Force Clemency and Parole Board approved clemency in this case by remitting the bad-conduct discharge.

235 (C.A.A.F. 2000). Given this was a bench trial, we can presume the military judge knew and applied the law correctly. *United States v. Robbins*, 52 M.J. 455, 457 (C.A.A.F. 2000). Finally, as to the incorrect sentence reflected in the promulgating order, the government concedes error. The sentence adjudged did not include forfeiture of all pay and allowances, as the court-martial order currently reflects. Therefore, we direct that a new court-martial order be promulgated to state the correct sentence as adjudged and approved.

The 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

LAQUITTA J. SMITH
Documents Examiner