

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman First Class **BRANDON C. SPILLERS**
United States Air Force

ACM 35457

18 February 2004

Sentence adjudged 4 October 2002 by GCM convened at Langley Air Force Base, Virginia. Military Judge: Anne L. Burman (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 13 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, Major Kyle R. Jacobson, and Major Andrea M. Gormel.

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

Before

STONE, GENT, and JOHNSON
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignments of error, and the government's answer thereto. The appellant first asserts that the commander of the Ninth Air Force (Provisional) was not authorized to convene general courts-martial when he took action on this case on 23 January 2003. We disagree and hold that the convening authority was authorized to convene courts-martial when he took action. *See United States v. Hardy*, 60 M.J. 620 (A.F. Ct. Crim. App. 2004), *pet. denied*, 04-0790/AF (12 Jan 2005). The appellant assigns two additional errors pursuant to *United States v. Grostefon*, 12 M.J. 431, 436 (C.M.A. 1982). We have considered them and found them to be without merit. *See United States v. Matias*, 25 M.J. 356, 361 (C.M.A. 1987).

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

ANGELA M. BRICE
Clerk of Court