

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman RYAN J. VAN PROOYEN
United States Air Force**

ACM S31777

17 December 2010

Sentence adjudged 20 January 2010 by SPCM convened at Davis-Monthan Air Force Base, Arizona. Military Judge: Joseph S. Kiefer (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 5 months, forfeiture of \$600.00 pay for 5 months, and reduction to E-1.

Appellate Counsel for the Appellant: Lieutenant Colonel Gail E. Crawford and Captain Daniel E. Schoeni.

Appellate Counsel for the United States: Colonel Don M. Christensen and Gerald R. Bruce, Esquire.

Before

**BRAND, GREGORY, and ROAN
Appellate Military Judges**

This opinion is subject to editorial correction before final release.

PER CURIAM:

A special court-martial composed of a military judge sitting alone convicted the appellant in accordance with his pleas of one specification of conspiracy to commit larceny and one specification of larceny in violation of Articles 81 and 121, UCMJ, 10 U.S.C. §§ 881, 921, and sentenced him to a bad-conduct discharge, confinement for five months, forfeiture of “\$600.00 pay for five months,” and reduction to the lowest enlisted grade. The convening authority approved the sentence adjudged. Finding error in the announcement of the sentence, we affirm the findings and reassess the sentence.

A sentence that includes forfeitures of pay other than a total forfeiture must state the amount to be forfeited in whole dollars per month and the number of months the forfeitures will continue. Rule for Courts-Martial (R.C.M.) 1003(b)(2); *United States v. Johnson*, 32 C.M.R. 127, 128 (C.M.A. 1962). Since the announced sentence did not include the words “per month,” we find that the amount announced shall be the *total amount* to be forfeited. See *United States v. Jones*, 60 M.J. 964, 972 (A.F. Ct. Crim. App. 2005). In his recommendations to the convening authority, the staff judge advocate noted the error in the announced sentence, but the action and promulgating order simply approved the sentence adjudged. Therefore, we affirm only so much of the sentence as provides for a bad-conduct discharge, confinement for five months, forfeiture of \$600 pay for one month, and reduction to the grade of E-1. All rights, privileges, and property, of which the appellant has been deprived by virtue of the execution of forfeitures approved by the convening authority, which have not been affirmed, will be restored.

Conclusion

The approved findings and the sentence, as modified, 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 the sentence, as modified, are

AFFIRMED.

OFFICIAL



A handwritten signature in blue ink, appearing to read "S. Lucas", is written over a faint, circular official stamp.

STEVEN LUCAS
Clerk of the Court