

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

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**UNITED STATES**

**v.**

**Airman Basic CHRISTOPHER B. WASHINGTON  
United States Air Force**

**ACM S29797 (f rev)**

**13 December 2002**

Sentence adjudged 11 February 2000 by GCM convened at Prince Sultan Air Base, Kingdom of Saudi Arabia. Military Judge: Rodger A. Drew Jr.

Approved sentence: Bad-conduct discharge and confinement for 2 months.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Jeffrey A. Vires, and Major Maria A. Fried.

Appellate Counsel for the United States: Colonel Anthony P. Dattilo, Lieutenant Colonel Lance B. Sigmon, and Captain Christa S. Cothrel.

Before

VAN ORSDOL, BRESLIN, and ORR, V.A.  
Appellate Military Judges

PER CURIAM:

Before a special court-martial convened at Prince Sultan Air Base, Saudi Arabia, the appellant was convicted, contrary to his pleas, of disobeying the lawful order of his superior commissioned officer to receive a vaccination against anthrax, in violation of Article 90, UCMJ, 10 U.S.C. § 890. The court-martial, comprised of officer and enlisted members, sentenced the appellant to a bad-conduct discharge and confinement for 2 months. The convening authority approved the sentence as adjudged.

Upon review of the conviction under Article 66(c), UCMJ, 10 U.S.C. § 866(c), this Court affirmed the findings and sentence. *United States v. Washington*, 54 M.J. 936 (A.F. Ct. Crim. App. 2001). In that opinion, this Court addressed the appellant's contention that he was presumed innocent on appeal. This Court said,

While we examine every record that comes before us for legal and factual sufficiency, we do not presume the appellant to be innocent. “Once [an accused] has been afforded a fair trial and convicted of the offense for which he was charged, the presumption of innocence disappears.” *Herrera v. Collins*, 506 U.S. 390, 399, 113 S. Ct. 853, 122 L.Ed.2d 203 (1993).

*Washington*, 54 M.J. at 941.

The United States Court of Appeals for the Armed Forces expressed concern about the citation to *Herrera v. Collins*, noting that the underlying issue in that case—whether habeas corpus relief was warranted for newly discovered evidence—placed a burden on the appellant to raise doubts about his guilt. *United States v. Washington*, 57 M.J. 394, 400 (2002). The court set aside our decision and remanded the case for clarification whether we “erroneously placed the burden on appellant to raise doubts about his guilt.” *Id.*

On remand, we reviewed this case for legal and factual sufficiency under Article 66(c), UCMJ. See *United States v. Reed*, 54 M.J. 37, 41 (2000). In reviewing this case for factual sufficiency, we gave no deference to the decision of the trial court, other than the deference required by Congress in Article 66(c), UCMJ, that we must recognize “that the trial court saw and heard the witnesses.” *Washington*, 57 M.J. at 399. As always, we placed no burden upon the appellant to show the factual insufficiency of the evidence.

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; *Reed*, 54 M.J. at 41. Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

FELECIA M. BUTLER, TSgt, USAF  
Chief Court Administrator