

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman Basic JEFFREY R. WATERMAN
United States Air Force**

ACM S30500

29 July 2004

Sentence adjudged 19 November 2003 by SPCM convened at Sheppard Air Force Base, Texas. Military Judge: Steven B. Thompson (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 4 months, and forfeiture of \$767.00 pay.

Appellate Counsel for Appellant: Major Terry L. McElyea, Captain Jennifer K. Martwick, and Captain Sandra K. Whittington.

Appellate Counsel for the United States: Colonel LeEllen Coacher.

Before

PRATT, ORR, and MOODY
Appellate Military Judges

OPINION OF THE COURT

PER CURIAM:

This case was submitted on its merits; however, appellate defense counsel duly noted a potential ambiguity in the language of the convening authority's action in this case. Under Rule for Courts-Martial 1003(b)(2), a sentence that includes partial forfeitures shall specify "the number of months the forfeitures will last." In this case, the convening authority's action simply stated "forfeiture of \$767.00 pay," without specifically stating the number of months. It is clear to us that the convening authority intended the forfeiture to apply for a single month, as indeed case law would in any case dictate under these circumstances. *United States v. Foster*, 39 M.J. 846 (A.C.M.R. 1994); *United States v. Burkett*, 57 M.J. 618 (C.G. Ct. Crim. App. 2002). Therefore, to resolve

any potential ambiguity, we affirm the sentence, but only forfeiture of \$767.00 pay per month for one month.

The approved findings and 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 sentence, as modified, are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court