

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

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**UNITED STATES**

**v.**

**Airman First Class JOSHUA B. YEEND  
United States Air Force**

**ACM S30819**

**26 May 2006**

Sentence adjudged 29 December 2004 by SPCM convened at Grand Forks Air Force Base, North Dakota. Military Judge: Kurt D. Schuman (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 8 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, and Major John N. Page III.

Appellate Counsel for the United States: Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Captain Kimani R. Eason.

Before

STONE, SMITH, and MATHEWS  
Appellate Military Judges

PER CURIAM:

The appellant asserts he is entitled to new post-trial processing because the record of trial does not contain sufficient evidence indicating the convening authority considered all of the clemency matters he submitted pursuant to Rule for Courts-Martial (R.C.M.) 1105. Finding no error, we affirm.

We review post-trial processing issues de novo. *United States v. Sheffield*, 60 M.J. 591, 593 (A.F. Ct. Crim. App. 2004). Prior to taking final action, the convening authority must consider clemency matters submitted by the accused. R.C.M. 1107(b)(3)(A)(iii). *See also United States v. Craig*, 28 M.J. 321, 324-25 (C.M.A. 1989). In this case, the addendum to the staff judge advocate's recommendation lists the appellant's and the trial defense counsel's requests for clemency, but it does not individually list or describe the

attachments they submitted. Additionally, the attachments are not initialed or annotated by the convening authority indicating he had reviewed them.

However, the record does show that the convening authority was informed of his responsibility to review the appellant's clemency matters prior to taking action. *See United States v. Pelletier*, 31 M.J. 501 (A.F.C.M.R. 1990). More importantly, the government has submitted an affidavit from the convening authority in which he specifically recalls reviewing the appellant's clemency submissions, to include the attachments listed in the defense counsel's letter: the appellant's request for clemency, a college acceptance letter, a student assessment report, a public school form, grade reports, a personal statement, and a character statement. Based upon this affidavit, we find the convening authority complied with the requirements of Article 60(c)(2), UCMJ, 10 U.S.C. § 860(c)(2), and R.C.M. 1107(b)(3)(A). *See also United States v. Foy*, 30 M.J. 664, 665 (A.F.C.M.R. 1990); *United States v. Godreau*, 31 M.J. 809, 811-812 (A.F.C.M.R. 1990).

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, 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

LOUIS T. FUSS, TSgt, USAF  
Chief Court Administrator