

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman Basic CHARDON J. BLACK
United States Air Force

ACM S30089

8 December 2003

Sentence adjudged 10 January 2002 by SPCM convened at Holloman Air Force Base, New Mexico. Military Judge: Steven B. Thompson.

Approved sentence: Bad-conduct discharge, confinement for 3 months, and forfeiture of \$740.00 pay per month for 3 months.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Jefferson B. Brown, Major Maria A. Fried, and Major Andrew S. Williams.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Lance B. Sigmon, and Captain C. Taylor Smith.

Before

STONE, MOODY, and JOHNSON-WRIGHT
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the three assignments of error raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), and the government's reply thereto. First, after weighing the evidence in the record of trial and making allowances for not having personally observed the witnesses, we are convinced beyond a reasonable doubt of the appellant's guilt of larceny and burglary, in violation of Articles 121 and 129, UCMJ, 10 U.S.C. §§ 921, 929. *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000) (citing *United States v. Turner*, 25 M.J. 324, 325 (C.M.A. 1987)). Next, we hold that any objection to the military judge's instruction, given in response to the court president's question about the legal significance of an intent to pay, was waived. Rule for Courts-Martial (R.C.M) 920(f). Even if not waived, however, we find that the military judge did not err in these instructions. *Manual for Courts-Martial, United States*

(MCM), Part IV, ¶ 46(c)(1)(f)(iii) (2000 ed.); *United States v. Binigar*, 55 M.J. 1 (C.A.A.F. 2001). Finally, we conclude that the sentence adjudged and approved is not inappropriately severe. *United States v. Healy*, 26 M.J. 394, 395 (C.M.A. 1988); *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982).

Accordingly, we conclude the findings and sentence are correct in law and fact, and no error prejudicial to the substantial rights of the appellant was committed. *Reed*, 54 M.J. at 37; Article 66(c), UCMJ, 10 U.S.C. § 866(c). On the basis of the entire record, the findings and sentence are

AFFIRMED.

OFFICIAL

HEATHER D. LABE
Clerk of Court