

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman BRYAN J. BILLSTEIN
United States Air Force**

ACM S30047

9 September 2002

Sentence adjudged 18 September 2001 by SPCM convened at Ramstein Air Base, Germany. Military Judge: Thomas W. Pittman (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 75 days, and reduction to E-1.

Appellate Counsel for Appellant: Captain Patrick J. Dolan.

Appellate Counsel for the United States: Colonel Anthony P. Dattilo, Lieutenant Colonel Lance B. Sigmon, and Captain Kate E. Oler.

Before

SCHLEGEL, ROBERTS, and PECINOVSKY
Appellate Military Judges

PER CURIAM:

The appellant was convicted, pursuant to his pleas, of the wrongful use of marijuana and mushrooms containing psilocyn and the wrongful possession of mushrooms containing psilocyn, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. He was acquitted of the wrongful possession of 3-4 methylenedioxymethamphetamine (ecstasy). His approved sentence was a bad-conduct discharge, confinement for 75 days, and reduction to E-1.

The appellant argues that the case should be returned to the convening authority for a new post-trial review because the staff judge advocate's recommendation (SJAR) was facially deficient. He specifically noted the absence of the report of result of trial and the personal data sheet in the record of trial, as attachments to the SJAR. The appellee moved to file affidavits from the convening authority and his staff judge

advocate stating that the personal data sheet and the report of result of trial were attached to the SJAR and were reviewed by the convening authority. We granted the motion and further ordered that the appellee provide the personal data sheet and the report of result of trial actually reviewed by the convening authority.

We have reviewed the affidavits by the convening authority and his staff judge advocate, as well as the personal data sheet and the report of result of trial attached to the SJAR, and hold that the provisions of Rule for Courts-Martial 1106 were satisfied.

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; *United States v. Turner*, 25 M.J. 324, 325 (C.M.A. 1987). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

HEATHER D. LABE
Clerk of Court