

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

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**UNITED STATES**

**v.**

**Airman Basic JOVON D. DANGERFIELD  
United States Air Force**

**ACM S30331**

**16 March 2005**

Sentence adjudged 18 February 2003 by SPCM convened at Lackland Air Force Base, Texas. Military Judge: Patrick M. Rosenow (sitting alone).

Approved sentence: Bad-conduct discharge and confinement for 4 months.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, and Major Antony B. Kolenc.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel David N. Cooper, and Major Shannon J. Kennedy.

Before

PRATT, ORR, and MOODY  
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignment of error, and the government's reply thereto. The appellant was convicted, in accordance with his pleas, of one specification of absence without leave, one specification of using provoking words, and two specifications of larceny, in violation of Articles 86, 117, and 121, UCMJ, 10 U.S.C. §§ 886, 917, 921. The special court-martial, consisting of a military judge sitting alone, sentenced the appellant to a bad-conduct discharge and confinement for 4 months.

On appeal, the appellant claims that the staff judge advocate (SJA), in commenting on the military judge's recommendation that the appellant be placed in the Return to Duty Program (RTDP), did not sufficiently elaborate on the legal significance of that program. Specifically, the appellant avers that the SJA should have spelled out that the convening

authority could have approved the sentence adjudged while placing the appellant in the RTDP. We disagree.

The staff judge advocate's recommendation (SJAR) advised the convening authority that the military judge "recommended that the [appellant] be considered for the [RTDP]." It further advised that "[w]hen deciding on appropriate action in this case, you must consider . . . the military judge's recommendation the accused be considered for the [RTDP]." Subsequently, the addendum to the SJAR advised that the convening authority "may consider the record of trial, which includes the military judge's recommendation . . . that the accused be considered for the [RTPD]." The addendum drew the convening authority's attention to the appellant's clemency matters (which included a detailed request for placement in the RTDP) and, in the concluding paragraph, stated, "I have carefully considered all the defense submissions in this case, as well as the military judge's recommendation the accused be considered for the RTPD, and find that no corrective action is warranted."

We conclude that this more than adequately drew the convening authority's attention to the military judge's clemency recommendation. *See United States v. Lee*, 50 M.J. 296, 297 (C.A.A.F. 1999) ("A recommendation by a military judge must be brought to the attention of the convening authority to assist him in considering the action to take on the sentence."). *See also United States v. Clear*, 34 M.J. 129, 132 (C.M.A. 1992) (A staff judge advocate must "call the convening authority's attention to a clemency recommendation made at the time of sentencing by the military judge who has adjudged the sentence."). We conclude that no further elaboration on the military judge's clemency recommendation was required.

Further, our review of the SJAR, the addendum, and the clemency submissions indicates no basis for the appellant's assertion that the convening authority was given the erroneous impression that approval of the adjudged sentence and entry into the RTDP were mutually exclusive. Accordingly, we hold that the SJAR complies with the requirements of Rule for Courts-Martial 1106(d) and that new post-trial processing, or other relief, is not warranted.

The approved findings and sentence are correct in law and fact, and no error prejudicial to the substantial rights of the appellant was committed. Article 66(c), UCMJ, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). On the basis of the entire record, the approved findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE  
Clerk of Court