

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

---

**UNITED STATES**

**v.**

**Airman Basic CHRISTOPHER D. DEISHER  
United States Air Force**

**ACM 35143**

**21 April 2004**

Sentence adjudged 11 January 2002 by GCM convened at Peterson Air Force Base, Colorado. Military Judge: Steven A. Hatfield.

Approved sentence: Bad-conduct discharge, confinement for 10 months, and forfeiture of all pay and allowances.

Appellate Counsel for Appellant: Major Terry L. McElyea, Major Maria A. Fried, Major Jefferson B. Brown, and Major Andrew S. Williams.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Jennifer R. Rider, and Major James K. Floyd.

Before

**STONE, MOODY, and JOHNSON-WRIGHT**  
Appellate Military Judges

**PER CURIAM:**

We have examined the record of trial, the assignments of error, and the government's reply thereto. By stating on the record that he did not object to the findings instructions, the appellant waived any claim of error as to the military judge submitting the lawfulness of a no contact order to the members and instructing them they could convict the appellant only if they were satisfied beyond a reasonable doubt that the order was lawful. Rule for Courts-Martial 920(f); *United States v. Simpson*, 58 M.J. 368, 378 (C.A.A.F. 2003). Moreover, reviewing this issue de novo, we find the order was lawful; thus, there was no plain error. *United States v. McDaniels*, 50 M.J. 407, 408-09 (C.A.A.F. 1999). Further, we do not find prejudice. The military judge implicitly found the order lawful and by submitting the matter to the court members, the appellant got a "second bite at the apple."

As to the remaining issues and considering the evidence in the light most favorable to the prosecution, we find that a rational factfinder could have found all the essential elements of disobedience of an order and of divers use of marijuana beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979). Furthermore, after considering the evidence in the record of trial and making allowances for not having personally observed the witnesses, we are ourselves convinced of the appellant's guilt beyond a reasonable doubt. *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). We conclude the 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); *Reed*, 54 M.J. at 41. Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

FELECIA M. BUTLER  
Chief Court Administrator