

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

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**UNITED STATES**

**v.**

**Technical Sergeant GREGORY S. HINDS  
United States Air Force**

**ACM 35940**

**30 March 2006**

Sentence adjudged 10 March 2004 by GCM convened at Mountain Home Air Force Base, Idaho. Military Judge: Anne L. Burman.

Approved sentence: Bad-conduct discharge, confinement for 18 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Carlos L. McDade, Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, Major Sandra K. Whittington, Major L. Martin Powell, and Captain Anthony D. Ortiz.

Appellate Counsel for the United States: Lieutenant Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Major Matthew S. Ward.

Before

**BROWN, MOODY, and FINCHER  
Appellate Military Judges**

**PER CURIAM:**

We examined the record of trial, the assignments of error, and the government's answer. The appellant asks us to order new post-trial processing because the Air Force Form 1359, Report of Result of Trial, contained erroneous information. While we agree that the information in the report was erroneous, we find no prejudice and affirm.

The appellant was a Security Forces supervisor who recruited his subordinates to break into buildings on base and steal government property. He was charged with conspiracy, unlawful entry, attempted unlawful entry and larceny of approximately 100 items of military property, in violation of Articles 80, 81, 121 and 130, UCMJ, 10 U.S.C.

§§ 880, 881, 921, 930. He pled guilty to all charges and specifications, with the exception of the theft of approximately 78 items of military property, to which he pled not guilty. The prosecution elected to move forward with its case-in-chief to prove the specification as written. At the conclusion of the prosecution's case, the defense, pursuant to Rule for Courts-Martial (R.C.M.) 917, moved for a finding of not guilty to stealing some of the items, specifically "one camo flack vest," "three camelback hydration systems" and one pair of "Gortex pants." The government did not oppose the motion and the military judge granted it. The court members then went on to find the appellant guilty of stealing roughly two-thirds of the military property and not guilty of stealing the remainder.

After the trial, a Report of Result of Trial was prepared by the staff judge advocate and submitted to the convening authority as an attachment to the staff judge advocate's recommendation (SJAR). The report failed to note the military judge's ruling regarding the RCM 917 motion. Instead, it reported that the appellant had been found guilty of stealing those items. This error was not addressed in either the SJAR or the addendum to the SJAR. The trial defense counsel failed to raise the issue of the erroneous Report of Result of Trial in the memorandum he submitted with the appellant's R.C.M. 1105 matters.

We review post-trial processing issues de novo. *United States v. Sheffield*, 60 M.J. 591, 593 (A.F. Ct. Crim. App. 2004). Relief will be granted if the appellant is able to establish "some colorable showing of possible prejudice." *United States v. Kho*, 54 M.J. 63, 65 (C.A.A.F. 2000) (quoting *United States v. Wheelus*, 49 M.J. 283, 289 (C.A.A.F. 1998)). In the appellant's case, we find that the incorrect content in the Report of Result of Trial constitutes error; however, we find no colorable showing of possible prejudice flowing from it. We are convinced the erroneous inclusion in the Report of Result of Trial of the five items of military property addressed in the R.C.M. 917 motion did not affect the convening authority's action. It is likely the convening authority, like the trial defense counsel, did not notice the inclusion of these items in the report. However, even if the convening authority noticed and erroneously considered these items, we are convinced beyond a reasonable doubt that their inclusion had no impact on the convening authority's decision. Within the context of the other items stolen, the erroneously included items were insignificant.

We examined the appellant's other assignments of error and found them to be without merit. *See United States v. Matias*, 25 M.J. 356, 361-63 (C.M.A. 1987).

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 findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE  
Clerk of Court