

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

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**UNITED STATES**

**v.**

**Staff Sergeant JAY A. ISALY  
United States Air Force**

**ACM 35438**

**28 September 2004**

Sentence adjudged 26 July 2002 by GCM convened at Shaw Air Force Base, South Carolina. Military Judge: Mary M. Boone.

Approved sentence: Bad-conduct discharge, confinement for 2 years, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, and Captain Jennifer K. Martwick.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Michael E. Savage, and Major John D. Douglas.

Before

STONE, GENT, and SMITH  
Appellate Military Judges

PER CURIAM:

The appellant assigns one error pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982). He asserts that the evidence is legally and factually insufficient to sustain his conviction for simple assault and wrongfully communicating a threat, violations of Articles 128 and 134, UCMJ, 10 U.S.C. §§ 928, 934, respectively. We have examined the record of trial, documents submitted by the appellant, the assignment of errors, and the government's reply thereto. We find this issue is without merit.

This case was tried before our superior Court decided *United States v. Walters*, 58 M.J. 391 (C.A.A.F. 2003). Although the appellant's assignment of errors and the government's answer were submitted after *Walters* was decided, no issue has been raised with respect to the clarity of the court-martial's findings. Indeed, the appellant's brief

observes that the members specified which events formed the basis for their findings of guilty. The members in this case excepted the “divers occasions” language from the specifications of Charges II and III. Without being instructed to do so, they wrote on the findings worksheet the dates upon which their findings on both charges were based, 8-9 March 2002 and mid-February 2002, respectively. We note the appellant’s brief reflects a clear understanding of the basis of the court members’ findings as reflected on the findings worksheet. In short, there is no ambiguity as to the court-martial’s findings on Charges II and III. On the record before us, we are able to afford the appellant a full and fair review of his conviction under Article 66(c), UCMJ, 10 U.S.C. § 866(c).

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. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE  
Clerk of Court