

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Senior Airman JASON A. MEIER
United States Air Force**

ACM S31087

30 November 2006

Sentence adjudged 2 November 2005 by SPCM convened at Osan Air Base, Republic of Korea. Military Judge: Steven A. Hatfield.

Approved sentence: Bad-conduct discharge, confinement for 9 months, forfeiture of \$823.00 pay per month for 9 months, and reduction to E-1.

Appellate Counsel for Appellant: Lieutenant Colonel Mark R. Strickland, Captain Christopher L. Ferretti, and Captain Anthony D. Ortiz.

Appellate Counsel for the United States: Colonel Gerald R. Bruce.

Before

**BROWN, FRANCIS, and SOYBEL
Appellate Military Judges**

PER CURIAM:

This case was submitted to this Court for review under Article 66(c), UCMJ, 10 U.S.C. § 866(c), on its merits; however, the action of the convening authority is ambiguous. The convening authority approved the sentence adjudged by the court members, consisting of a bad-conduct discharge, confinement for 9 months, forfeiture of \$823 pay per month for 9 months, and reduction to E-1. However, in his action, the convening authority also waived all mandatory forfeitures until the sooner of the appellant's release from confinement or six months from the date of the convening authority's action. The convening authority directed that the waived mandatory forfeiture of pay be paid to the appellant's spouse.

Based on our review of the record of trial and allied papers, we find that, although the convening authority did not suspend, modify or disapprove the adjudged forfeitures, the action reflects a clear intent by the convening authority to waive the mandatory forfeitures under Article 58b, UCMJ, 10 U.S.C. § 858b, for the benefit of the appellant's spouse. We can cure this ambiguity in the convening authority's action by disapproving the adjudged forfeitures. *United States v. Johnson*, 62 M.J. 31, 38 (C.A.A.F. 2005).

We therefore affirm only so much of the sentence as provides for a bad-conduct discharge, confinement for 9 months, and reduction to E-1. The approved findings and the sentence, as modified, 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 the sentence, as modified, are

AFFIRMED.

OFFICIAL

JEFFREY L. NESTER
Clerk of Court