

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

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**UNITED STATES**

**v.**

**Airman Basic KEVIN S. O'CALLAGHAN  
United States Air Force**

**ACM S30349**

**14 April 2005**

Sentence adjudged 12 March 2003 by SPCM convened at Hickam Air Force Base, Hawaii. Military Judge: Dawn R. Eflein (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 2 months, and forfeiture of \$500.00 pay per month for 3 months.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, and Major Andrew S. Williams.

Appellate Counsel for the United States: Colonel LeEllen Coacher Lieutenant Colonel Robert V. Combs, and Major Tracey L. Printer.

Before

STONE, GENT, and SMITH  
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignment of error, and the government's reply thereto. The appellant raises the issue whether he is entitled to meaningful sentence relief or a new post-trial review and action where there is no evidence that the convening authority considered his clemency submission, although the staff judge advocate invited him to do so.

We find that the addendum to the staff judge advocate's recommendation stated that the appellant submitted the clemency matters attached to the addendum. The clemency materials consisted of a single letter signed by the appellant and his trial defense counsel. The letter was, in fact, attached to the addendum. The addendum also advised the convening authority that he "must" consider the letter

before taking action. Finally, the convening authority signed an indorsement to the addendum that stated he considered the clemency matters before taking action. We hold that there is ample evidence that the convening authority considered the clemency matters before taking action. *United States v. Gaddy*, 54 M.J. 769, 773 (A.F. Ct. Crim. App. 2001); *United States v. Foy*, 30 M.J. 664, 666 (A.F.C.M.R. 1990).

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 approved findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE  
Clerk of Court