UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman First Class JOSEPH L. WILSON
United States Air Force

ACM S30301

31 January 2005

Sentence adjudged 11 December 2002 by SPCM convened at McConnell Air Force Base, Kansas. Military Judge: Kurt D. Schuman (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 4 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, and Captain L. Martin Powell.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Robert V. Combs, and Major Kevin P. Stiens.

Before

MALLOY, JOHNSON, and GRANT
Appellate Military Judges

OPINION OF THE COURT

JOHNSON, Judge:

We have examined the record of trial, the assignments of error, and the government's reply thereto. We conclude the convening authority's action is not ambiguous even though two words ("the sentence") were inadvertently omitted. An ambiguous action is one that is "capable of being understood in two or more possible senses." *United States v. Loft,* 10 M.J. 266, 268 (C.M.A. 1981). In our view there is only one reasonable interpretation. The convening authority intended to approve the entire sentence, otherwise references in the body of the action to the bad-conduct discharge, waiver of some of the mandatory forfeitures, designation of the Air Force Corrections System as the place of confinement, and to the appellant as an Airman Basic would be

meaningless. Furthermore, we hold the staff judge advocate properly advised the convening authority on the appellant's request for entry into the Return to Duty Program. Having found no error, we affirm. However, because the action is incomplete, in that it is missing two words, the convening authority will have to withdraw the original action and substitute a corrected action. Rule for Courts-Martial 1107(g). We return the record of trial to The Judge Advocate General for a new convening authority action. The record of trial does not need to be returned to this Court after the substitution.

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 USC § 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