

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
FLEMING, PENLAND, and MORRIS
Appellate Military Judges

UNITED STATES, Appellee
v.
Specialist MALACHI M. TEMPLE
United States Army, Appellant

ARMY 20230403

Headquarters, 1st Cavalry Division
Joseph K. Venghaus, Military Judge
Lieutenant Colonel Shari F. Shugart, Staff Judge Advocate (pretrial)
Lieutenant Colonel Allison D. McFeatters, Staff Judge Advocate (post-trial)

For Appellant: Major Cody D. Cheek, JA; Captain Matthew S. Fields, JA (on brief);
Colonel Philip M. Staten, JA; Lieutenant Colonel Autumn R. Porter, JA; Major
Robert D. Luyties, JA; Major Cody D. Cheek, JA (on brief on specified issue).

For Appellee: Lieutenant Colonel Kalin P. Schlueter, JA (on brief); Colonel
Christopher B. Burgess, JA; Lieutenant Colonel Kalin P. Schlueter, JA; Captain
Patrick S. Barr, JA (on brief on specified issue).

26 July 2024

SUMMARY DISPOSITION

This opinion is issued as an unpublished opinion and, as such, does not serve as precedent.

PENLAND, Judge

On 11 December 2023, this case was referred to the Army Court of Criminal Appeals for review pursuant to Article 66(b)(3), Uniform Code of Military Justice. Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982, appellant asserts he was denied his right to meaningful clemency consideration, we agree and return the case to the convening authority for new action.

DISCUSSION

The Staff Judge Advocate (SJA) stated in their clemency advice that appellant had not submitted the necessary information for transferring forfeitures for the

benefit of his dependents; this was incorrect. Additionally, the SJA responded “No” instead of “N/A” to the question of whether appellant made a request for deferment of adjudged forfeitures. Appellant had in fact submitted the correct information requesting deferment of automatic forfeitures pursuant to R.C.M. 1106.

CONCLUSION

The convening authority’s action, dated 22 August 2023, is SET ASIDE. Pursuant to R.C.M. 1111(c)(3), we remand this case to the military judge for a modification of the entry of judgment upon completion of the SJA’s corrected clemency advice and the convening authority’s new action.

Senior Judge FLEMING and Judge MORRIS concur.

FOR THE COURT:



JAMES W. HERRING, JR. *JW*
Clerk of Court