

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
JOHNSTON, SQUIRES, and ECKER
Appellate Military Judges

UNITED STATES, Appellee
v.
Specialist JAMES O. WRIGHT
United States Army, Appellant

ARMY 9601769

Headquarters, 82d Airborne Division
A. F. Arquilla, Military Judge

For Appellant: Major Leslie A. Nepper, JA.

For Appellee: Pursuant to A.C.C.A. Rule 15.2, no response filed.

7 August 1998

MEMORANDUM OPINION ON REMAND

Per Curiam:

On 9 October 1997, this court affirmed the findings and sentence in the instant case. *United States v. Wright*, ARMY 9601769 (Army Ct. Crim. App.) (unpub.). On 24 July 1998, the United States Court of Appeals for the Armed Forces remanded to this court for consideration of appellant's claim, raised for the first time before that court, that his sentence was unlawfully executed in violation of the ex post facto clause of the U.S. Constitution. See *United States v. Gorski*, 47 M.J. 370 (1997).

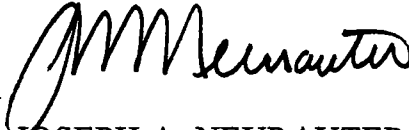
Appellant's sentence as adjudged, approved by the convening authority, and affirmed by this court was lawful. If appellant's sentence was executed in an unlawful manner, his remedy is administrative in nature. See *Gorski*, 47 M.J. at 375-76 (Cox, C.J., concurring and commenting). Appellant may obtain judicial relief only after exhausting the administrative procedures established by the Defense Finance and Accounting Service for recoupment of forfeitures taken in reliance on the provisions of Articles 58b(a) and 57(a)(1), Uniform Code of Military Justice, 10 U.S.C. §§ 858b(a) and 857(a)(1).

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On consideration of the entire record of trial, including consideration of the remanded issue, we again hold that the findings of guilty and the sentence as approved by the convening authority are correct in law and fact.

Accordingly, the findings of guilty and the sentence are reaffirmed.

FOR THE COURT:

A handwritten signature in black ink, appearing to read "J. A. Neurauter", written in a cursive style.

JOSEPH A. NEURAUTER
Clerk of Court