

# UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before  
TOOMEY, TRANT, and CARTER  
Appellate Military Judges

UNITED STATES, Appellee  
v.  
Specialist RICHARD F. JENSEN  
United States Army, Appellant

ARMY 9601495

XVIII Airborne Corps and Fort Bragg  
A. F. Arquilla, Military Judge

For Appellant: Colonel John T. Phelps II, JA; Lieutenant Colonel Michael L. Walters, JA; Major Leslie A. Nepper, JA; Captain Mary J. Bradley, JA (on brief and supplemental brief filed with Court of Appeals for the Armed Forces) (no pleadings filed with this court).

For Appellee: Lieutenant Colonel Frederic L. Borch III, JA (on response filed with Court of Appeals for the Armed Forces) (no pleadings filed with this court).

24 August 1998

-----  
MEMORANDUM OPINION ON REMAND  
-----

Per Curiam:

On 25 March 1997, this court affirmed the findings of guilty and the sentence in appellant's case. On 12 June 1998, the United States Court of Appeals for the Armed Forces remanded this case to our court solely for consideration of appellant's claim that his sentence was unlawfully executed in violation of the *ex post facto* clause of the United States Constitution. See *United States v. Gorski*, 47 M.J. 370 (1997).

Appellant's sentence as 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). Appellant may obtain relief pursuant to the administrative procedures established by the Defense Finance and Accounting Service for recoupment of forfeitures taken in reliance on the provisions of Articles 57(a)(1) and 58b, Uniform Code of Military Justice, 10 U.S.C. §§ 857(a)(1) and 858b (1997).

JALS-CCZ

JENSEN - ARMY 9601495

Having considered the remanded issue, the decision of this court in this case, dated 25 March 1997, remains in effect.

FOR THE COURT:

A handwritten signature in cursive script, appearing to read "J. Neurauter".

JOSEPH A. NEURAUTER  
Clerk of Court