UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Senior Airman JACOB A. ATKINSON
United States Air Force

ACM 38617

16 April 2015

Sentence adjudged 8 April 2014 by GCM convened at Ellsworth Air Force Base, South Dakota. Military Judge: Natalie Richardson (sitting alone).

Approved Sentence: Bad-conduct discharge, confinement for 15 months, and reduction to E-2.

Appellate Counsel for the Appellant: Lieutenant Colonel Judith A. Walker and Major Thomas A. Smith.

Appellate Counsel for the United States: Gerald R. Bruce, Esquire.

Before

MITCHELL, WEBER, and CONTOVEROS
Appellate Military Judges

OPINION OF THE COURT

WEBER, Judge:

A military judge sitting as a general court-martial convicted the appellant, consistent with his pleas, of one specification of knowingly and wrongfully possessing child pornography, and one specification of knowingly and wrongfully viewing such material, both in violation of Article 134, UCMJ, 10 U.S.C. § 934. The military judge sentenced the appellant to a bad-conduct discharge, confinement for 15 months, forfeiture of all pay and allowances, and reduction to E-2. The convening authority disapproved the forfeitures but otherwise approved the sentence as adjudged.

The appellant submitted this case to the court without alleging any specific error. We note one issue in the record of trial that merits discussion but no relief.

Child Pornography Files

In sentencing, the government called an expert witness in the field of computer forensic examination. The expert laid the foundation for the prosecution to admit without objection Prosecution Exhibit 1, a compact disc that purported to contain eight videos of child pornography found on the appellant's computer. While the record does not make this point explicit, it appears these are the eight videos the appellant, in his providence inquiry, admitted to possessing and viewing.

The disc labeled as Prosecution Exhibit 1 in the record of trial only contains seven videos. One of these videos could not be viewed; it could be opened using a standard media player, but no video image appeared. Despite this, we find no relief is warranted. The appellant was not charged with possessing or viewing child pornography on divers occasions; thus, the conviction remains legally and factually sufficient even if he only possessed and viewed the six files we reviewed instead of eight. We also find the appellant's sentence appropriate despite this matter.

Conclusion

The approved findings and sentence are correct in law and fact, and no error materially prejudicial to the substantial rights of the appellant occurred. Articles 59(a) and 66(c), UCMJ, 10 U.S.C. §§ 859(a), 866(c). Accordingly, the findings and the sentence are **AFFIRMED**.

FOR THE COURT

STEVEN LUCAS
Clerk of the Court