

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Staff Sergeant KEVIN D. AULTMAN
United States Air Force

ACM S30319

21 March 2005

Sentence adjudged 4 December 2002 by SPCM convened at RAF Mildenhall, United Kingdom. Military Judge: Thomas W. Pittman (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 2 months, and reduction to E-3.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, Major Kyle R. Jacobson, Major Sandra K. Whittington, and Major James M. Winner.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Robert V. Combs, and Major M. Leeann Summer.

Before

STONE, GENT, and SMITH
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignment of error, and the government's answer thereto. The appellant asserts that his plea to writing worthless checks, in violation of Article 134, UCMJ, 10 U.S.C. § 934, was improvident because the military judge failed to elicit a sufficient factual basis to establish that his conduct was dishonorable. We disagree. *See United States v. Bullman*, 56 M.J. 377, 380-83 (C.A.A.F. 2002).

The appellant is a noncommissioned officer who had been on active duty well over seven years at the time of his court-martial. He was a maintenance analyst for an aircraft maintenance squadron, a position which required attention to detail and

organizational skills. His last enlisted performance report (EPR), dated 28 October 2001, indicated that he had “exceptional computer knowledge” and used it to correct errors in maintenance and operational computer data inputs for 560 airmen. The record also reflects that he attended financial management and budgeting courses. His first EPR, covering the period of 5 July 1995 through 4 March 1997, indicates that he “experienced difficulty with personal financial management issues” and “attended financial management and budgeting classes several times.” The command noted significant improvement in his personal finances during this timeframe. A stipulation of fact indicates that he attended another financial management class on 7 February 2001. It is apparent that this noncommissioned officer had excellent data management skills and was given abundant particularized training in managing his personal financial matters.

The military judge properly advised the appellant of the elements of this offense and defined the appropriate terms. We find that the appellant both admitted and explained why his conduct was grossly indifferent and was in bad faith. The appellant stipulated that, at the time he wrote each of the checks, he was unsure whether he would have sufficient funds in his account to cover them. He also stipulated that there were numerous times when he knew his account was overdrawn but took no steps to reconcile his account with sources of income and outstanding checks.

The appellant’s statements during the providence inquiry provided evidence that his conduct was grossly indifferent and not merely negligent. *Manual for Courts-Martial, United States (MCM)*, Part IV, ¶¶ 68(c), 71(c). The appellant explained that he did not examine his bank statements after 1998, nor did he examine correspondence from the bank that may have put him on notice of returned checks. He did not keep a check register or any other means of reconciling the checks he wrote with the balance in his bank account. Even at the time of trial, he did not know how much money he made when he wrote the checks. We conclude that the appellant gave an adequate factual basis to establish that he acted with gross indifference and bad faith when he failed to place or maintain sufficient funds in his bank account, and we hold that the plea was provident. *See United States v. Prater*, 32 M.J. 433, 436 (C.M.A. 1991).

The 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 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). On the basis of the entire record, the findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court