

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman Basic TRACIE R. BARNES
United States Air Force**

ACM S30620

15 August 2005

Sentence adjudged 1 April 2004 by SPCM convened at Keesler Air Force Base, Mississippi. Military Judge: Daryl E. Trawick (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 2 months, and forfeiture of \$500.00 pay per month for 2 months.

Appellate Counsel for Appellant: Colonel Carlos L. McDade and Captain Christopher S. Morgan.

Appellate Counsel for the United States: Lieutenant Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Captain C. Taylor Smith.

Before

STONE, ORR, and MOODY
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignment of error, and the government's reply thereto. The appellant contends that her plea to wrongful use of Coricidin cough and cold medication in violation of Article 134, UCMJ, 10 U.S.C. § 934, was improvident. Specifically, the appellant alleges that the military judge did not elicit facts which objectively support the element of prejudice to good order and discipline in the armed forces.

We have examined the providence inquiry and the stipulation of fact. We find that the appellant admitted the following: (1) that at all times relevant to the trial she was assigned to the 338th Training Squadron at Keesler Air Force Base, Mississippi; (2) that while on Keesler, on more than one occasion, she ingested 20 to 30 tablets of Coricidin at

a time; (3) that Coricidin is a non-prescription cough medicine; (4) that its primary active ingredient is Dextromathorphan (DXM); (5) that each tablet of Coricidin contains 30 mg of DXM; (6) that taken in the doses which the appellant admitted to having ingested, DXM can produce “euphoria, hallucinations, nausea, and dizziness”; (7) that the appellant took Coricidin for the purpose of “getting high”; and (8) that due in part to her misuse of Coricidin the appellant was removed from training and was, therefore, unable to fulfill her duties. Furthermore, during the providence inquiry the appellant stated:

Taking the Coricidin was prejudicial to good order and discipline because abusing this medication, as well as other things I’ve done, caused me to be removed from my normal duties. I was removed from training and put to work doing details such as door guard and picking up trash. So, using this medication was prejudicial to good order and discipline because my behavior made me unable to fulfill my duties of training.

We conclude that the appellant stated facts which objectively supported her plea of guilty to the wrongful use of Coricidin. Specifically, we conclude that the facts elicited during the providence inquiry objectively support the element of prejudice to good order and discipline. *See United States v. Deserano*, 41 M.J. 678, 681 (A.F. Ct. Crim. App. 1995); *United States v. Jordan*, 57 M.J. 236, 238 (C.A.A.F. 2002); *United States v. Faircloth*, 45 M.J. 172, 174 (C.A.A.F. 1996); *United States v. Davenport*, 9 M.J. 364, 367 (C.M.A. 1980). As a consequence, we conclude that there is no substantial basis in law and fact to question the plea. We hold that the military judge did not abuse his discretion by accepting the appellant’s plea of guilty. *United States v. Eberle*, 44 M.J. 374 (C.A.A.F. 1996).

The approved 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). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

FELECIA M. BUTLER, TSgt, USAF
Chief Court Administrator