

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman STEVEN C. CHAVIS II
United States Air Force**

ACM 35510

28 January 2005

Sentence adjudged 28 January 2003 by GCM convened at Vandenberg Air Force Base, California. Military Judge: R. Scott Howard (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 24 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Lieutenant Colonel Brandon A. Burnett, Major Terry L. McElyea, Captain Diane M. Paskey, and Captain David P. Bennett.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel David N. Cooper, and Spencer R. Fisher (legal intern).

Before

**ORR, MOODY, and CONNELLY
Appellate Military Judges**

OPINION OF THE COURT

This opinion is subject to editorial correction before final release.

CONNELLY, Judge:

The appellant pled guilty to two specifications of assault on a child under 16 years of age, in violation of Article 128, UCMJ, 10 U.S.C. § 928. A military judge sitting alone as a general court-martial accepted the appellant's pleas and sentenced him to a bad-conduct discharge, confinement for 24 months, and reduction to E-1. The convening authority approved the adjudged sentence, but waived the mandatory forfeitures for a

period of six months for the benefit of the appellant's son. On appeal, the appellant alleges his sentence is inappropriately severe.¹

Sentence appropriateness should generally "be judged by 'individualized consideration' of the particular accused 'on the basis of the nature and seriousness of the offense and the character of the offender.'" *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982) (quoting *United States v. Mamaluy*, 27 C.M.R. 176, 180-81 (C.M.A. 1959)). In the instant case, the appellant pled guilty to assaulting his six-month-old son on two occasions. The first instance left the child with significant bruising on his face.

Evidence of the appellant's adjustment disorder and schizotypal personality disorder were considered by the court. The court also considered the appellant's poor disciplinary record as evidenced by the nonjudicial punishment, two letters of reprimand, and letter of counseling he received. The amount of confinement adjudged was well below the amount capped in the appellant's pretrial agreement with the convening authority. The nature of the offenses, the age and vulnerability of the victim, and the appellant's prior military record justify the sentence imposed in this case.

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). Accordingly, the findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court

¹ The issue is raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).