UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman First Class ANTHONY J. CRENSHAW
United States Air Force

ACM S31653 (f rev)

25 March 2010

Sentence adjudged 22 April 2009 by SPCM convened at Seymour Johnson Air Force Base, North Carolina. Military Judge: Stephen Woody (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 4 months, and reduction to E-1.

Appellate Counsel for the Appellant: Colonel Raymond J. Hardy, Jr., Major Shannon A. Bennett, and Major Michael A. Burnat.

Appellate Counsel for the United States: Colonel Douglas P. Cordova, Lieutenant Colonel Jeremy S. Weber, Captain Megan E. Middleton, and Gerald R. Bruce, Esquire.

Before

BRAND, HELGET, and GREGORY
Appellate Military Judges

UPON FURTHER REVIEW

PER CURIAM:

A special court-martial composed of military judge alone convicted the appellant in accordance with his pleas of wrongful use of marijuana on divers occasions and wrongful use of ecstasy in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. The court-martial sentenced the appellant to reduction to the grade of E-1, confinement for five months, and a bad-conduct discharge. A pretrial agreement capped confinement at four months if a punitive discharge was adjudged. Following remand for a corrected

action and promulgating order, the convening authority approved the bad-conduct discharge, reduction in grade, and confinement for four months, instead of the adjudged five, in accordance with the pretrial agreement. The remaining issue on appeal is the appropriateness of the approved bad-conduct discharge, which is raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).

This Court reviews sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382, 383-84 (C.A.A.F. 2005). We "may affirm only such findings of guilty and the sentence or such part or amount of the sentence, as [we find] correct in law and fact and determine[], on the basis of the entire record, should be approved." Article 66(c), UCMJ, 10 U.S.C. § 866(c). "We assess sentence appropriateness by considering the particular appellant, the nature and seriousness of the offenses, the appellant's record of service, and all matters contained in the record of trial." *United States v. Bare*, 63 M.J. 707, 714 (A.F. Ct. Crim. App. 2006) (citing *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A 1988); *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982)), *aff'd* 65 M.J. 35 (C.A.A.F. 2007). We have a great deal of discretion in determining whether a particular sentence is appropriate but are not authorized to engage in exercises of clemency. *United States v. Lacy*, 50 M.J. 286, 287-88 (C.A.A.F. 1999); *Healy*, 26 M.J. at 395-96.

During his less than one year on active duty the appellant used marijuana on multiple occasions and ecstasy once. He actively sought the marijuana, purchasing "nickel bags" from a civilian supplier at least five different times. Likewise, another civilian supplier at a convenience store provided the appellant ecstasy at the appellant's request. The appellant told the military judge that he used these substances to relieve stress. Having given individualized consideration to this particular appellant, the nature of the offenses, the appellant's record of service, and all other matters in the record of trial, we hold that the approved sentence is not inappropriately severe.

Conclusion

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; *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000).

Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

STEVEN LUCAS, YA-02, DAF
Clerk of the Court