UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Staff Sergeant ANDREA T. DRAUGHN
United States Air Force

ACM S30382

20 September 2005

Sentence adjudged 19 March 2003 by SPCM convened at Spangdahlem Air Base, Germany. Military Judge: Linda S. Murnane.

Approved sentence: Bad-conduct discharge and reduction to E-2.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Terry L. McElyea, and Major Andrea M. Gormel.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Robert V. Combs, and Captain C. Taylor Smith.

Before

ORR, JOHNSON, and JACOBSON
Appellate Military Judges

PER CURIAM:

The appellant was convicted, contrary to her pleas, of two specifications of wrongfully using marijuana on divers occasions and one specification of wrongfully possessing marijuana on divers occasions, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. The special court-martial, consisting of officer and enlisted members, sentenced the appellant to a bad-conduct discharge and reduction to E-2. The convening authority approved the sentence as adjudged. On appeal, the appellant alleges ineffective assistance of counsel.[1]

In order for an individual to claim ineffective assistance of counsel, an appellant must overcome a strong presumption that the trial defense counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional

[1] This assignment of error is raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).

judgment." *Strickland v. Washington*, 466 U.S. 668, 690 (1984). The appellant must prove that counsel's performance was deficient and this deficiency prejudiced the appellant. *Id.* at 692.

The appellant has not offered any evidence that overcomes the presumption that her counsel acted reasonably, but instead appears to indicate that she now disagrees with portions of the defense trial strategy. A review of the record shows that the appellant, in a discussion with the military judge, acknowledged her right to counsel and indicated her desire to be represented by her detailed defense counsel. The record also indicates that the trial defense counsel put on a vigorous defense during all phases of the trial. Finally, the appellant indicates in her post-trial declaration that her lawyer "insisted I not testify to my outstanding record and defend myself," but goes on to say that she "allowed him to proceed as he deemed best." The record clearly shows that the military judge explained to the appellant that she alone had to make the decision whether or not to testify. The appellant indicated that she understood this concept. We find that the appellant freely made the decision to not testify fully understanding her right. In reviewing the record in its entirety, we hold that the appellant's claim of ineffective assistance of counsel is without merit.

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