UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Staff Sergeant SHERIDAN R. FERRELL II
United States Air Force

ACM 35581 (f rev)

30 June 2006

Sentence adjudged 30 January 2003 by GCM convened at MacDill Air Force Base, Florida. Military Judge: Mary M. Boone (sitting alone).

Approved sentence: Dishonorable discharge, confinement for 6 years, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Lieutenant Colonel Mark R. Strickland, Major Terry L. McElyea, and Captain Christopher S. Morgan.

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

Before

STONE, JOHNSON, and MATHEWS
Appellate Military Judges

UPON FURTHER REVIEW

PER CURIAM:

The appellant was convicted, in accordance with his pleas, of two specifications of dereliction of duty, and two specifications of larceny of military property of a value over $500, in violation of Articles 92 and 121, UCMJ, 10 U.S.C. §§ 892, 921. A military judge, sitting as a general court-martial, sentenced him to a dishonorable discharge, confinement for 7 years, and reduction to the grade of E-1. The convening authority approved the findings, reduced the appellant's confinement to 6 years in accordance with the appellant's pre-trial plea agreement, and approved the remainder of his sentence as adjudged.

In our initial review of the appellant's case, we modified one of the larceny specifications to reflect a value less than $500, affirmed the findings as modified, and reassessed the sentence. We set aside the action and returned the record to The Judge Advocate General for remand to the convening authority for new post-trial processing. *United States v. Ferrell*, ACM 35581 (A.F. Ct. Crim. App. 23 Aug 2005) (unpub. op.). On 7 February 2006, the convening authority withdrew the action taken by his predecessor in command and approved the findings, as modified, and so much of the sentence, as reassessed, as called for a dishonorable discharge, confinement for 6 years, and reduction to E-1.

The facts of the appellant's case were detailed in our earlier opinion, and need only be summarized here. The appellant was assigned to an intelligence facility at USCENTCOM supporting U.S. military operations in Afghanistan and elsewhere. Angry and resentful at the slow processing of his application to become an Army warrant officer, the appellant stole military property from his work center, including laptops and handheld computing devices containing extraordinarily sensitive classified information. These items were eventually recovered after the appellant failed a polygraph examination and confessed.

The appellant contends that his sentence is inappropriately severe. Citing *United States v. Lacy*, 50 M.J. 286, 287 (C.A.A.F. 1999), he asks us to exercise our "highly discretionary power" and award him a substantial reduction in his confinement and no dishonorable discharge. We decline to do so.

In determining the appropriateness of the appellant's sentence, we consider both his record and the gravity of his offenses. *See United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982) (citing *United States v. Mamaluy*, 27 C.M.R. 176, 180-81 (C.M.A. 1959)). The appellant's record, prior to his offenses, was generally excellent; indeed, it is unlikely he could have gained the position of extraordinary trust he held were it otherwise. But there is simply no overlooking the fact that the appellant abused that position of trust to accomplish his crimes, and did so with the understanding that, as he put it, he was "screwing" his comrades. The impact of the appellant's misconduct extended well beyond his immediate work center: dozens of law enforcement agents were brought onto the case, over a thousand individuals were called in for questioning, and thousands of man-hours were expended in an effort to find the classified material stolen by the appellant. On the whole, we cannot say that the appellant's approved sentence was harsher than he deserves. *Cf. United States v. Healy* 26 M.J. 394, 395 (C.M.A. 1988).

The findings, as previously modified, and sentence, as previously reassessed, 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); *See Ferrell*, unpub. op. at 4. Accordingly, the findings and sentence are

AFFIRMED.

OFFICIAL

LOUIS T. FUSS, TSgt, USAF
Chief Court Administrator