**UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

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**UNITED STATES**

**v.**

**Senior Airman GLEN R. GLOVER**
**United States Air Force**

**ACM 38012**

**11 December 2012**

Sentence adjudged 26 July 2011 by GCM convened at Hill Air Force Base, Utah. Military Judge: Jeffrey A. Ferguson (sitting alone).

Approved sentence: Dishonorable discharge, confinement for 5 years, and reduction to E-1.

Appellate Counsel for the Appellant: Major Daniel E. Schoeni and Major Grover H. Baxley.

Appellate Counsel for the United States: Colonel Don M. Christensen; Major Roberto Ramirez; and Gerald R. Bruce, Esquire.

Before

STONE, GREGORY, and HARNEY
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

A general court-martial composed of a military judge sitting alone convicted the appellant, consistent with his pleas, of two specifications of aggravated sexual assault of a child and two specifications of sodomy with a child under the age of 16 years, in violation of Articles 120 and 125, UCMJ, 10 U.S.C. §§ 920, 925. The victims were a 15-year old girl who babysat the appellant's children[1] and her 14-year-old female friend. The appellant had sexual intercourse and oral sex with the victims in his base housing and in his car at both on and off-base locations. Once, the appellant engaged in a "threesome" at his home with the victims. The military judge sentenced the appellant to

[1] At the time of the offenses, the appellant was married with three children.

a dishonorable discharge, five years of confinement, and reduction to E-1. The convening authority approved the sentence adjudged.[2] Before this Court, the appellant argues that his sentence was inappropriately severe.[3] Finding no error prejudicial to the substantial rights of the appellant, we affirm.

*Sentence Severity*

This Court reviews sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382, 384-85 (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 offense, the appellant's record of service, and all matters contained in the record of trial. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982); *United States v. Bare*, 63 M.J. 707, 714 (A.F. Ct. Crim. App. 2006), *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, 288 (C.A.A.F. 1999); *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988).

The appellant asserts that his sentence is inappropriately severe because his misconduct occurred over a short period of time. He asserts that he accepted responsibility for his misconduct and saved the Government the time and expense of a litigated court-martial by waiving his hearing under Article 32, UCMJ, 10 U.S.C. § 832, and then pleading guilty to the charges and specifications. The appellant notes that the Government did not present any victim impact evidence during sentencing, while he presented an expert witness who testified that the appellant represented a low risk of re-offending. The Government counters with the facts and circumstances of the offenses and points out that the appellant accepted a pretrial agreement capping his confinement at five years and elected to be tried by a military judge sitting alone.

We have given individualized consideration to this particular appellant, the nature and seriousness of the offense, the appellant's record of service, and all other matters contained in the record of trial. The appellant, a married man with three children, had sexual relations on and off base with 14 and 15 year old girls on multiple occasions. He negotiated a pretrial agreement that capped his confinement at five years and received the benefit of his bargain with the Government. The convening authority considered the appellant's clemency submissions prior to approving the sentence as adjudged. We find that the approved sentence was clearly within the discretion of the convening authority, was appropriate in this case, and was not inappropriately severe.

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[2] A pretrial agreement stated that the convening authority agreed to approve no confinement in excess of 60 months. There were other limitations on the sentence.

[3] The appellant raises this issue pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).

*Conclusion*

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; *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the findings and the sentence are

AFFIRMED.

OFFICIAL

LAQUITTA J. SMITH
Paralegal Specialist