UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman BRADLEY M. HOLT
United States Air Force

ACM S31750

31 January 2011

Sentence adjudged 03 November 2009 by SPCM convened at Langley Air Force Base, Virginia. Military Judge: John P. Taitt (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 75 days, and reduction to E-1.

Appellate Counsel for the Appellant: Lieutenant Colonel Gail E. Crawford, Major Michael A. Burnat, Major Darrin K. Johns, Major Bryan A. Bonner, and Captain Phillip T. Korman.

Appellate Counsel for the United States: Lieutenant Colonel Jeremy S. Weber, Major Deanna Daly, Major Coretta E. Gray, and Gerald R. Bruce, Esquire.

Before

BRAND, GREGORY, and ROAN
Appellate Military Judges

PER CURIAM:

A special court-martial composed of a military judge sitting alone convicted the appellant in accordance with his pleas of one specification of wrongfully using cocaine on divers occasions in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. The court sentenced him to a bad-conduct discharge, confinement for 75 days, and reduction to the grade of E-1. The convening authority approved the sentence adjudged. The appellant waived submission of clemency matters to the convening authority, but now argues on

appeal that his sentence is inappropriately severe.[1] In support of his argument, the appellant cites his combat service in Afghanistan, his guilty plea, and the character letters submitted at trial.

Sentence Appropriateness

We review sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382, 383-84 (C.A.A.F. 2005). We make such determinations in light of the character of the offender, the nature and seriousness of his offenses, and the entire 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). Additionally, while we have a great deal of discretion in determining whether a particular sentence is appropriate, we 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); *United States v. Dodge*, 59 M.J. 821, 829 (A.F. Ct. Crim. App. 2004), *aff'd in part and rev'd in part on other grounds*, 60 M.J. 368 (C.A.A.F. 2004).

The appellant entered active duty in 2004 and worked as a surgical assistant. Although his deployed service in Afghanistan earned positive recognition, his home station service resulted in extensive derogatory data that includes several nonjudicial punishment actions, letters of counseling, and a letter of reprimand. Of his four performance reports, two are referrals. He admitted during the plea inquiry to seeking cocaine at an off-base residence where he ingested two lines, then later returned to his apartment where he used more. A urine specimen, taken shortly after the drug use, tested positive for cocaine. While the matters cited by the appellant are appropriate considerations in clemency, they do not show that his sentence is inappropriately severe. These matters were properly before the court-martial that sentenced him as well as the convening authority that approved the sentence. Having considered the sentence de novo in light of the character of this offender, the nature and seriousness of his offense, and the entire record of trial, we find the appellant's sentence appropriate.

Conclusion

We conclude 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, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000).

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

Accordingly, the findings and the sentence are

AFFIRMED.

OFFICIAL

STEVEN LUCAS
Clerk of the Court