UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman First Class NATANE L. HONEK
United States Air Force

ACM 35631

8 March 2005

Sentence adjudged 14 May 2003 by GCM convened at Barksdale Air Force Base, Louisiana. Military Judge: Kurt D. Schuman (sitting alone).

Approved sentence: Dishonorable discharge, confinement for 18 months, and reduction to E-1.

Appellate Counsel for Appellant: Major Terry L. McElyea and Major Sandra K. Whittington.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Robert V. Combs, and Major Kevin P. Stiens.

Before

ORR, MOODY, and CONNELLY
Appellate Military Judges

OPINION OF THE COURT

CONNELLY, Judge:

The appellant pled guilty to fraudulent enlistment, absence without leave, making false official statements, use and possession of cocaine, use of marijuana, malingering, solicitation of another to commit an offense, prostitution, and breaking restriction, in violation of Articles 83, 86, 107, 112a, 115, and 134, UCMJ, 10 U.S.C. §§ 883, 886, 907, 912a, 915, 934. A military judge sitting alone as a general court-martial accepted the appellant's pleas and sentenced her to a dishonorable discharge, confinement for 19 months, and reduction to E-1. Pursuant to a pretrial agreement, the convening authority reduced the confinement to 18 months and approved all other portions of the sentence.

On appeal, the appellant raises two errors pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982). The errors alleged are ineffective assistance of counsel and sentence severity.

In order for an individual to claim ineffective assistance of counsel, an appellant must overcome a strong presumption that defense counsel has "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional 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 691. The appellant has not offered any evidence, either by affidavit or some other form, which overcomes the presumption that her counsel acted reasonably. A review of the record shows that the appellant, on several occasions, acknowledged her satisfaction with her counsel, the accuracy of the stipulation of fact, and the voluntary nature of her pretrial agreement and guilty pleas.

Sentence appropriateness should generally "be judged by 'individualized consideration' of the particular accused 'on the basis of the nature and seriousness of the offense and the character of the offender.'" *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982) (quoting *United States v. Mamaluy*, 27 C.M.R. 176, 180-81 (C.M.A. 1959)). The appellant's misconduct in this case was serious, intentional, and of great detriment to the Air Force. Her conduct justified the sentence approved in this case.

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

FELECIA M. BUTLER, TSgt, USAF
Chief Court Administrator