UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman First Class KASEY M. JOHNSON
United States Air Force

ACM 37056

20 October 2008

Sentence adjudged 04 April 2007 by GCM convened at Moody Air Force Base, Georgia. Military Judge: Jennifer A. Whittier.

Approved sentence: Bad-conduct discharge, confinement for 15 days, hard labor without confinement for 45 days, forfeiture of $250.00 pay per month for 2 months, and reduction to E-1.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland, Major Shannon A. Bennett, and Captain Phillip T. Korman.

Appellate Counsel for the United States: Colonel Gerald R. Bruce and Lieutenant Colonel Matthew S. Ward.

Before

BRAND, FRANCIS, and JACKSON
Appellate Military Judges

PER CURIAM:

Contrary to the appellant's pleas, a panel of officers sitting as a general court-martial convicted her of one specification of wrongful use of methylenedioxymethamphetamine (ecstasy), in violation of Article 112a, UCMJ, 10 U.S.C. § 912. The adjudged and approved sentence consists of a bad-conduct discharge, 15 days confinement, 45 days hard labor without confinement, forfeiture of $250 pay per month for two months, and a reduction to E-1. The appellant was credited with four days for illegal pretrial confinement. On appeal the appellant asks the Court to disapprove her bad-conduct discharge or, in the alternative, grant appropriate sentencing relief. The

basis for her request is that she opines her sentence is inappropriately severe.[1] Finding no error, we affirm.

Background

The facts of this case are relatively straightforward. On 4 December 2006, the appellant was randomly selected for a urinalysis. On that same day, in compliance with the random urinalysis order, the appellant provided a urine sample. That sample was sent to the Air Force Drug Testing Laboratory and subsequently tested positive for ecstasy at 683 ng/mL.

Inappropriately Severe Sentence

This Court reviews 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 her offense, 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).

In the case at hand, use of illegal drugs is a serious offense which compromises the appellant's standing as a military member. Moreover, the appellant's military record, one replete with mediocre duty performance and past instances of misconduct,[2] belies any notion of rehabilitative potential. Put simply, after carefully examining the submissions of counsel, the appellant's military record, and taking into account all the facts and circumstances surrounding the offense of which the appellant was found guilty, we do not find the appellant's sentence inappropriately severe.

Conclusion

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).

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

[2] The appellant had received non-judicial punishment for violating a "no contact" order, two letters of reprimand for making false official statements, a letter of admonishment for financial irresponsibility, and a record of individual counseling for failure to go.

Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

STEVEN LUCAS, YA-02, DAF
Clerk of the Court