

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Senior Airman ABIGAIL K. JOSHUA
United States Air Force

ACM 35272

2 March 2004

Sentence adjudged 4 June 2002 by GCM convened at McGuire Air Force Base, New Jersey. Military Judge: Sharon A. Shaffer (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 10 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, Captain Jennifer K. Martwick, and Captain L. Martin Powell.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Major John D. Douglas, and Captain Kevin P. Stiens.

Before

STONE, MOODY, and JOHNSON-WRIGHT
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignment of error raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), and the government's reply thereto. We find the appellant's sentence is not inappropriately severe. Article 66(c), UCMJ, 10 U.S.C. § 866(c), requires that we affirm only so much of the sentence as we find "should be approved." In determining sentence appropriateness, we must exercise our judicial powers to assure that justice is done and that the appellant receives the punishment he or she deserves. Performing this function does not authorize this Court to exercise clemency. *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988). The primary manner in which we discharge this responsibility is to give individualized consideration to an appellant, including the nature and seriousness of the offenses and the character of the appellant's service. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982). We considered the appellant's relatively short career, the seriousness of her

pattern of criminal behavior (illegal use of cocaine, divers uses of marijuana, possession of marijuana, absence without leave, failure to go, false official statements, and altering official documents), the lack of mitigation and extenuation evidence apart from her unsworn statement, and the government's aggravation evidence. Applying the legal standard stated above to the facts of this case, we find that the appellant's sentence is not inappropriately severe.

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

AFFIRMED.

OFFICIAL

HEATHER D. LABE
Clerk of Court