

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class LANA K. JURGEL
United States Air Force**

ACM 35054

13 May 2003

Sentence adjudged 15 January 2002 by GCM convened at Andrews Air Force Base, Maryland. Military Judge: Roger A. Drew (sitting alone).

Approved sentence: Dishonorable discharge, confinement for 3 years, forfeiture of all pay and allowances, a fine of \$10,000, and reduction to E-1.

Appellate Counsel for Appellant: Major Kyle R. Jacobson and Major Karen L. Hecker.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Lance B. Sigmon, and Lori M. Jemison (legal intern).

Before

**VAN ORSDOL, ORR, W.E., and CONNELLY
Appellate Military Judges**

OPINION OF THE COURT

CONNELLY, Judge:

On 15 January 2002, the appellant was tried by general court-martial composed of a military judge sitting alone at Andrews Air Force Base (AFB), Maryland. Consistent with her pleas, the appellant was found guilty of wrongful use of 3,4 methylenedioxymethamphetamine, also known as ecstasy, and ketamine, on divers occasions, wrongful distribution of ecstasy, ketamine and lysergic acid diethylamide (LSD), on divers occasions, and wrongful introduction of ecstasy onto Andrews AFB, all in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. The military judge sentenced the appellant to a dishonorable discharge, confinement for 3 years, forfeiture of all pay and allowances, and reduction to E-1. In addition, the military judge adjudged a fine of \$10,000, and further confinement until payment of the fine, but for not more than an

additional 9 months. The convening authority, in accordance with a pretrial agreement (PTA), approved only so much of the sentence as provided for a dishonorable discharge, confinement for 3 years, forfeiture of all pay and allowances, reduction to E-1, and a fine of \$10,000.

The appellant raises one issue on appeal. She claims that her sentence is inappropriately severe. We disagree and affirm.

This Court may only affirm those findings and sentences we find are correct in law and fact and determine, on the basis of the entire record, should be approved. Article 66, UCMJ, 10 U.S.C. § 866. Our standard of review is whether, considering the entire record, the character of the offender and the nature of the offenses for which she is being sentenced, the sentence adjudged or approved is appropriate. *United States v. Peoples*, 29 M.J. 426 (C.M.A. 1990); *United States v. Snelling*, 14 M.J. 267 (C.M.A. 1982).

During a seven-month period, the appellant and her boyfriend distributed approximately 2000 ecstasy pills at \$25 per pill and 400 bags of ketamine at \$20 per bag to military members and civilians. The distribution occurred both on and off Andrews AFB. The appellant had a significant role in the distribution providing financing, storage, and involvement in numerous individual drug sales. During a valid search, 394 ecstasy pills and \$1,800 in cash were found in the appellant's boyfriend's room. The appellant acknowledged that her motivation in selling the drugs was greed. Besides selling drugs, the appellant used ecstasy and ketamine on many occasions both on and off Andrews AFB.

The appellant attempts to mitigate her guilt by offering herself as a person plagued by problems and stressful family situations, a woman frequently caught in abusive and destructive relationships with men that impaired her judgment. The appellant further contends that she waited 13 months to be tried and during that time performed well in a host of menial jobs. This all may be true. However, it does not make less serious the appellant's actions or the harm she caused. The Court must be conscious of the amount of drugs and money involved in this case, the seven-month duration of the criminal undertakings, the number of military members affected, the location of the distribution, and the profit motive that prompted the appellant's actions. In addition, the appellant was 25 years old and had been in the Air Force ten months when her misconduct began. She was of an age and had received sufficient military training to be fully aware of the wrongfulness of her conduct.

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 (2000). Accordingly, the findings and sentence are

AFFIRMED.

OFFICIAL

FELECIA M. BUTLER, TSgt, USAF
Chief Court Administrator