

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Second Lieutenant TROY L. MANGUM JR.
United States Air Force**

ACM 36724

31 May 2007

Sentence adjudged 21 February 2006 by GCM convened at Edwards Air Force Base, California. Military Judge: Jack L. Anderson (sitting alone).

Approved sentence: Dismissal.

Appellate Counsel for Appellant: Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, and Captain Timothy M. Cox.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Major Matthew S. Ward, and Captain Donna S. Rueppell.

Before

FRANCIS, SOYBEL, and BRAND
Appellate Military Judges

PER CURIAM:

In accordance with his pleas, the appellant was convicted of one specification of fraternization, and one specification of disorderly conduct, in violation of Article 134, UCMJ, 10 U.S.C. § 934. His approved sentence consists of a dismissal.

We reviewed the record of trial, the assignment of errors, and the government's answer thereto. The appellant asserts his guilty plea to the Specification of the Additional Charge was improvident, and that his sentence to a dismissal is inappropriately severe.

In determining whether a guilty plea is provident, the test is whether there is a "substantial basis in law and fact for questioning the guilty plea." *United States v. Jordan*, 57 M.J. 236, 238 (C.A.A.F. 2002) (citing *United States v. Prater*, 32 M.J. 433, 436 (C.M.A. 1991)). In order to establish an adequate factual basis for a guilty plea, the military judge must elicit "factual circumstances as revealed by the accused

himself [that] objectively support that plea[.]” *Jordan*, 57 M.J. at 238 (quoting *United States v. Davenport*, 9 M.J. 364, 367 (C.M.A. 1980)). The providency inquiry must reflect the fact that the accused understood the nature of the prohibited conduct. *United States v. Sapp*, 53 M.J. 90, 92 (C.A.A.F. 2000). A military judge must explain the elements of the offense and ensure that a factual basis for each element exists. *United States v. Barton*, 60 M.J. 62, 64 (C.A.A.F. 2004) (citing *United States v. Faircloth*, 45 M.J. 172 (C.A.A.F. 1996)). We review a military judge’s decision to accept a guilty plea for an abuse of discretion. *United States v. Eberle*, 44 M.J. 374, 375 (C.A.A.F. 1996) (citing *United States v. Gallegos*, 41 M.J. 446 (C.A.A.F. 1995)).

The appellant told the military judge he had a loud verbal altercation with Staff Sergeant (SSgt) D. He then explained to the military judge he grabbed a kitchen knife, held it towards SSgt D’s neck, and that he was joking. He went on to say that his actions escalated the event, and clearly disrupted the former peace and quiet in the residence. Although the character statements from the individuals present indicated they were not concerned with the safety of SSgt D that does not change the providence of the appellant’s plea to disorderly conduct. His plea was provident and supported by evidence in the record of trial, and the military judge did not abuse his discretion in accepting that plea.

We “may affirm only such findings of guilty and the sentence or such part or amount of the sentence, as [we find] correct in law and fact and determine[], on the basis of the entire record, should be approved.” Article 66(c), UCMJ, 10 U.S.C. § 866(c). We assess sentence appropriateness by considering the particular appellant, the nature and seriousness of the offense, the appellant’s record of service, and all matters contained in the record of trial. *United States v Snelling*, 14 M.J. 267, 268 (C.M.A. 1982).

After a careful review of the record of trial, to include the appellant’s post-trial submissions, we conclude the appellant’s sentence to a dismissal 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

MARTHA E. COBLE-BEACH, TSgt, USAF
Court Administrator