

**UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

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**UNITED STATES**

**v.**

**Airman First Class MICHAEL V. MARTINEZ  
United States Air Force**

**ACM S31080 (f rev)**

**03 September 2009**

Sentence adjudged 31 March 2009 by SPCM convened at Davis-Monthan Air Force Base, Arizona. Military Judge: Don M. Christensen.

Approved sentence: Bad-conduct discharge, confinement for 30 days, and reduction to E-1.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland, Major Shannon A. Bennett, Major Michael A. Burnat, Major John S. Fredland, Major Matthew C. Hoyer, Captain Griffin S. Dunham, and Captain Jennifer J. Raab.

Appellate Counsel for the United States: Colonel Douglas P. Cordova, Colonel Gerald R. Bruce, Lieutenant Colonel Matthew S. Ward, Major Donna S. Rueppell, and Major Kimani R. Eason.

Before

**FRANCIS, JACKSON, and THOMPSON**  
Appellate Military Judges

This opinion is subject to editorial correction before final release.

**PER CURIAM:**

This case is before us for the second time. At trial, the appellant pled to and was found guilty of one specification of divers wrongful use of methamphetamine, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. His adjudged and approved sentence consisted of a bad-conduct discharge, 90 days confinement, forfeitures of \$849 of pay per month for three months, and reduction to the grade of E-1. In an unpublished opinion, this Court affirmed the findings and the sentence. *United States v. Martinez*, ACM S31080 (A.F. Ct. Crim. App. 2 Jan 2008) (unpub. op.).

On appeal, our superior court affirmed the findings, set aside the sentence, and returned the record of trial to The Judge Advocate General for a rehearing on the sentence. *United States v. Martinez*, 67 M.J. 59 (C.A.A.F. 2008). On 20 March 2009 the convening authority ordered a rehearing on the sentence. On 31 March 2009 the sentence rehearing convened and a panel of officer and enlisted members sentenced the appellant to a bad-conduct discharge, 30 days confinement, and reduction to the grade of E-1. The convening authority approved the sentence.

### *Conclusion*

The approved findings have previously been affirmed by our superior court. The approved sentence is 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 approved sentence is

AFFIRMED.

OFFICIAL



A handwritten signature in blue ink, appearing to read "S. Lucas", is written over the seal.

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