UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman COURTNEY E. MULLINS
United States Air Force

ACM S31457

12 February 2009

Sentence adjudged 29 January 2008 by SPCM convened at Lackland Air Force Base, Texas. Military Judge: Maura T. McGowan.

Approved sentence: Bad-conduct discharge, confinement for 7 months, forfeiture of $350.00 pay per month for 7 months, and reduction to E-1.

Appellate Counsel for the Appellant: Major Shannon A. Bennett and Captain Michael A. Burnat.

Appellate Counsel for the United States: Colonel Gerald R. Bruce and Major Jeremy S. Weber.

Before

BRAND, FRANCIS, and JACKSON
Appellate Military Judges

PER CURIAM:

In accordance with the appellant's pleas, a military judge convicted her of one specification of dereliction of duty, one specification of divers wrongful use of cocaine, one specification of wrongful distribution of cocaine, one specification of wrongful introduction of cocaine onto a military installation, and one specification of wrongful use of marijuana, in violation of Articles 92 and 112a, UCMJ, 10 U.S.C. §§ 892, 912a. A panel of officers sitting as a special court-martial sentenced the appellant to a bad-conduct discharge, seven months confinement, forfeitures of $350 a month for seven months, and a reduction to E-1.

The convening authority approved the sentence as adjudged. On appeal the appellant asks the Court to set aside her bad-conduct discharge or grant other appropriate relief. The basis for her request is that she opines her sentence to a bad-conduct discharge is inappropriately severe.[1] We disagree. Finding no error, we affirm.

Background

In May or June 2007, the appellant went with a friend to a downtown residence in San Antonio, Texas. While there, the appellant saw a woman cutting cocaine into lines. The woman offered the appellant some cocaine, and the appellant accepted and snorted a few lines of cocaine. On one other occasion during the same time period, the appellant returned to the downtown residence and again snorted cocaine with the same woman.

On 21 July 2007, the appellant and another airman returned to the downtown residence to purchase some cocaine. The airman gave the drug dealer $100 who, in turn, gave five small bags of cocaine to the appellant. The appellant gave the airman the bags of cocaine, and the two departed for the appellant's car. Upon arriving at the appellant's car, the two snorted a few lines of cocaine and departed for Lackland Air Force Base. After arriving at Lackland Air Force Base,[2] the appellant drove the airman to the base Class VI store. The airman purchased some alcohol, and the two returned to the base dormitories and drank the alcohol.[3]

On 25 July 2007, the Air Force Office of Special Investigations summoned the appellant to its office for an interview. After a proper rights advisement, the appellant waived her rights and confessed to her crimes.

In early January 2008, the appellant was with a friend in downtown San Antonio. The appellant's friend purchased and offered the appellant some marijuana. The appellant accepted and smoked the marijuana.

Inappropriately Severe Sentence

We review 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 offenses, 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,

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

[2] Though the appellant did not have exclusive physical possession of the cocaine when she drove another airman onto Lackland Air Force Base, she knew the airman had the cocaine on his person and by driving the airman onto the installation, the appellant was the proximate cause of the introduction of the cocaine onto the installation. *See United States v. Banks*, 20 M.J. 166, 168 (C.M.A. 1985).

[3] The appellant's act of drinking the alcohol served as the basis for the dereliction of duty (underage drinking) charge.

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); *United States v. Dodge*, 59 M.J. 821, 829 (A.F. Ct. Crim. App. 2004), *aff'd in part and rev'd in part on other grounds*, 60 M.J. 368 (C.A.A.F. 2004).

The appellant's drug abuse seriously compromised her standing as a military member. Moreover, her crimes are further aggravated by the fact that she involved other airmen in her crimes. After carefully examining the submissions of counsel, the appellant's military record, and taking into account all the facts and circumstances surrounding the offenses 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). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

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