UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Staff Sergeant DANIEL S. POOL
United States Air Force

ACM 37477

05 January 2011

Sentence adjudged 21 April 2009 by GCM convened at Mountain Home Air Force Base, Idaho. Military Judge: David S. Castro (sitting alone).

Approved sentence: Dishonorable discharge, confinement for 54 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for the Appellant: Lieutenant Colonel Gail E. Crawford, Major Shannon A. Bennett, Major Anthony D. Ortiz, Captain Phillip T. Korman, and Captain Andrew J. Unsicker.

Appellate Counsel for the United States: Colonel Don M. Christensen, Lieutenant Colonel Jeremy S. Weber, Major John M. Simms, and Gerald R. Bruce, Esquire.

Before

BRAND, GREGORY, and ROAN
Appellate Military Judges

PER CURIAM:

A general court-martial composed of a military judge sitting alone convicted the appellant in accordance with his pleas of one specification of possessing child pornography and one specification of receiving child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. The court sentenced him to a dishonorable discharge, confinement for 54 months, forfeiture of all pay and allowances, and reduction to the

grade of E-1. The convening authority approved the adjudged sentence. The appellant argues that his sentence is too severe.[1]

We review sentence appropriateness de novo. *See 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 his 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, 714 (A.F. Ct. Crim. App. 2006). 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).

In support of his argument that a dishonorable discharge is too severe a punishment for his crimes, the appellant cites his desire for treatment and his "otherwise outstanding military record." Yet, while the appellant was building his military record he was also building an extensive collection of child pornography. The over 6,800 images of child pornography found on his computers included "lots of infants" and toddlers engaged in extreme sexual activity. His collection spanned several years, during which time he lamented in a chat room how the child pornography community had changed to wanting more immediate gratification rather than spending the time to search for images of children in various stages of undress: "[P]eople dont [sic] appreciate it remotely as much as they should." While the matters highlighted by the appellant are appropriate considerations in clemency, they do not show his sentence to be inappropriately severe. Having considered the sentence de novo in light of the character of this offender, the nature and seriousness of his offenses, and the entire record of trial, we find the appellant's sentence appropriate.

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).

[1] The appellant had civilian charges pending in Idaho during his military trial. These civilian charges were not considered by this Court while considering the appropriateness of the appellant's sentence.

Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

STEVEN LUCAS
Clerk of the Court