

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Staff Sergeant MATHEW T. REINDL
United States Air Force**

ACM S31993

30 January 2013

Sentence adjudged 20 September 2011 by SPCM convened at Ellsworth Air Force Base, South Dakota. Military Judge: William C. Muldoon (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 6 months, and reduction to E-1.

Appellate Counsel for the Appellant: Captain Nathan A. White.

Appellate Counsel for the United States: Colonel Don M. Christensen; Major Roberto Ramirez; and Gerald R. Bruce, Esquire.

Before

ROAN, MARKSTEINER, and HECKER
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

A general court-martial composed of a military judge convicted the appellant, consistent with his pleas, of uttering and making checks with intent to defraud, in violation of Article 123a, UCMJ, 10 U.S.C. § 923a. The adjudged sentence consisted of a bad-conduct discharge, confinement for 8 months, and reduction to the grade of E-1. Pursuant to a pretrial agreement, the convening authority reduced the confinement period to 6 months and approved the remainder of the sentence as adjudged. On appeal, the appellant asserts, pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), that his sentence is inappropriately severe. Finding no error that materially prejudices the appellant, we affirm.

Sentence Appropriateness

Between October 2010 and February 2011, the appellant made and uttered multiple bad checks to military and civilian entities. This included six checks for goods and services he wrote to various civilian entities in Rapid City, South Dakota, totaling over \$3,200, and sixteen checks cashed at Army and Air Force Exchange Services on Ellsworth Air Force Base, for which he received \$4,800 in cash. At the time he made and uttered these checks, the appellant knew he would not have sufficient funds in his bank account or credit with his bank for payment of the checks upon their presentment, and he intended to defraud the payees when he presented the checks to them. For this course of conduct, the appellant pled guilty to seven specifications of making and uttering checks with the intent to defraud. The appellant contends his sentence to a bad-conduct discharge is inappropriately severe, given that some military members who use illegal drugs do not receive punitive discharges for that offense.

We disagree. In reviewing sentence appropriateness, 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); *United States v. Rangel*, 64 M.J. 678, 686 (A.F. Ct. Crim. App. 2007). We have a great deal of discretion in determining whether a particular sentence is appropriate, but 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). Applying these standards to the present case, we do not find the bad-conduct discharge to be an inappropriately severe punishment for the appellant’s offenses.

Conclusion

The approved findings and sentence are correct in law and fact, and no error prejudicial to the substantial rights of the appellant occurred.* Articles 59(a) and 66(c), UCMJ, 10 U.S.C. §§ 859(a), 866(c).

* We note that the court-martial order (CMO) fails to contain any reference to Charge II and its Specifications, to which the appellant pled not guilty and were ultimately dismissed. We order the promulgation of a corrected CMO.

Accordingly, the findings and sentence are

AFFIRMED.



FOR THE COURT

STEVEN LUCAS
Clerk of the Court

A handwritten signature in blue ink, appearing to read "S. Lucas", is written over the printed name and title.