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

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**UNITED STATES**

**v.**

**Airman LESLIE D. RILEY**
**United States Air Force**

**ACM 32183 (f rev)**

**7 April 2005**

Sentence adjudged 10 January 2004 by GCM convened at Dyess Air Force Base, Texas. Military Judge: Mary M. Boone.

Approved sentence: Bad-conduct discharge, confinement for 3 years, and forfeiture of all pay and allowances.

Appellate Counsel for Appellant: Colonel Carlos L. McDade, Major Sandra K. Whittington, Major L. Martin Powell, and Major Karen L. Hecker.

Appellate Counsel for the United States: Lieutenant Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Major Kevin P. Stiens.

Before

STONE, GENT, and SMITH
Appellate Military Judges

UPON FURTHER REVIEW

PER CURIAM:

We have examined the record of trial, the assignments of error, the government's response, and the appellant's reply thereto. This case is before us upon further review following a rehearing on the sentence for the offense of negligent homicide. *See United States v. Riley*, 58 M.J. 305 (C.A.A.F. 2003). The appellant first asserts that the military judge erred in her instructions to the court members regarding the nature of the offense. We find the military judge correctly instructed the members on the procedural history of this case, the elements of the offense of which she was found guilty, and the definitions of appropriate terms. We hold that she did not abuse her discretion in declining to

include language proposed by the defense. *United States v. Miller*, 58 M.J. 266, 270 (C.A.A.F. 2003).

The appellant next argues that her sentence is inappropriately severe. She asks us not to affirm the bad-conduct discharge. This Court exercises broad discretion in determining sentence appropriateness. *United States v. Lacy*, 50 M.J. 286, 288 (C.A.A.F. 1999). We consider sentence appropriateness by "individualized consideration" of the appellant on the "basis of the nature and seriousness of the offense and the character of the offender." *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982) (quoting *United States v. Mamaluy*, 27 C.M.R. 176, 180-81 (C.M.A. 1959)). Assessing sentence appropriateness "involves the judicial function of assuring that justice is done and that the accused gets the punishment [s]he deserves." *United States v. Healy*, 26 M.J. 394, 395 (C.M.A. 1988). We hold that the appellant's sentence is not inappropriately severe.

The 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). On the basis of the entire record, the findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court