UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Staff Sergeant ADAM T. RUYLE
United States Air Force

ACM S31917

28 August 2012

Sentence adjudged 28 January 2011 by SPCM convened at Charleston Air Force Base, South Carolina. Military Judge: Terry A. O'Brien (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 4 months, and reduction to E-1.

Appellate Counsel for the Appellant: Captain Travis K. Ausland.

Appellate Counsel for the United States: Colonel Don M. Christensen; Colonel Thomas A. Monheim; and Gerald R. Bruce, Esquire.

Before

ROAN, WEISS and SARAGOSA
Appellate Military Judges

PER CURIAM:

The appellant was convicted by a military judge sitting as a special court-martial, in accordance with his pleas, of two specifications of being absent without authority, one specification of failure to go to his appointed place of duty, one specification of dereliction of duty by misusing his Government Travel Card (GTC), and one specification of giving a false official statement, in violation of Articles 86, 92, and 107, UCMJ, 10 U.S.C. §§ 886, 892, 907. The adjudged sentence consisted of a bad-conduct discharge, 6 months of confinement, and a reduction to the grade of E-1. In accordance with a pretrial agreement, the convening authority approved the bad-conduct discharge,

4 months of confinement, and the reduction to the grade of E-1. On appeal, the appellant asserts that his sentence is inappropriately severe.[1]

In the Fall of 2010, the appellant was enrolled in the C-17 Transitional Course at Joint Base Charleston, South Carolina. His fiancé lived in Texas during this timeframe. Between September and November 2010, the appellant used his GTC for several unauthorized purchases. He also allowed his fiancé to use the GTC for personal purchases. On Wednesday, 10 November 2010, the appellant used the GTC to purchase an airline ticket to visit his fiancé in Texas. Although that Thursday, 11 November 2010, was the Veteran's Day holiday, and he knew he was required to report to duty on Friday, 12 November 2010, he chose to leave his duty station without authority on 10 November 2010 and remain in Texas until Sunday, 14 November 2010. Knowing he would miss class on Friday, 12 November 2010, he called his instructor and lied that he was in the emergency room with migraines and a 103-degree temperature. He remained absent from duty without proper authority from 12-16 November 2010. On 15 November 2010, the appellant again used his GTC to purchase a second return ticket because he missed his previously scheduled flight. Just a few days later, on 20 November 2010, the appellant left town again to visit his fiancé. He was scheduled to report for duty at 0630 hours on 22 November 2010, but instead returned late that afternoon. He stated his late return resulted when his motorcycle ran out of gas on his way back to Charleston and he had no money to purchase more until the bank opened at 0900 hours. Finally, the appellant was again absent without authorization from 13 December 2010 to 6 January 2011. He again went to visit his fiancé during this period. Despite their numerous efforts to contact the appellant during his absence, the appellant never returned or responded to any telephone calls from his roommate, squadron, and members of the Air Force Office of Special Investigations. The appellant stated he wanted to spend the holidays with his family. The stipulation of fact also indicates that the appellant's initial absences were motivated by his dissatisfaction with the Air Force and feelings of being treated unfairly with respect to his assignments.

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 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), *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).

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

This Court has carefully examined the submissions of counsel, the entire record of trial, the character of the appellant, the appellant's military record, the nature and seriousness of the offenses, and taken into account all the facts and circumstances surrounding the offenses of which he was found guilty. We do not find that the appellant's sentence is inappropriately severe.

Conclusion

The approved findings and the 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 findings and the sentence are

AFFIRMED.

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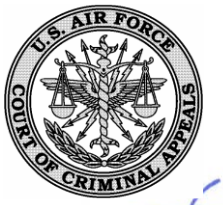

STEVEN LUCAS
Clerk of the Court