

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman JOSHUA R.C. TORRES
United States Air Force

ACM S30439

15 April 2005

Sentence adjudged 11 July 2003 by SPCM convened at Keesler Air Force Base, Mississippi. Military Judge: Lance B. Sigmon (sitting alone).

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

Appellate Counsel for Appellant: Major Terry L. McElyea, Major Sandra K. Whittington, and Major Jennifer K. Martwick.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Major James K. Floyd, and Captain Amy E. Hutchens.

Before

ORR, MOODY, and CONNELLY
Appellate Military Judges

OPINION OF THE COURT

This opinion is subject to editorial correction before final release.

CONNELLY, Judge:

The appellant pled guilty to three specifications of receipt, possession, and distribution of child pornography, in violation of 18 U.S.C. § 2252A, which conduct was to the prejudice of good order and discipline in the armed forces or of a nature to bring discredit upon the armed forces, in violation of Article 134, UCMJ, 10 U.S.C. § 934. A military judge sitting as a special court-martial accepted the appellant's pleas and sentenced him to a bad-conduct discharge, confinement for 6 months, and reduction to E-1. The convening authority approved the adjudged sentence. On appeal, the appellant alleges his sentence is inappropriately severe.

Sentence appropriateness should generally “be judged by ‘individualized consideration’ of the particular accused ‘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)). In the instant case, the appellant had received, possessed, and distributed eight pornographic images of minors engaged in genital-to-genital, oral-to-genital and anal-to-genital contact with others. While we acknowledge the appellant’s remorse for engaging in this conduct, his actions are exploitative of children and corrosive to good order and discipline and the standing of the armed forces in the community. The 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). Accordingly, the findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court