UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman Basic RASHARD E. WARREN
United States Air Force

ACM S30187

6 February 2003

Sentence adjudged 8 August 2002 by SPCM convened at Seymour Johnson Air Force Base, North Carolina. Military Judge: Mary M. Boone (sitting alone).

Approved sentence: Bad-conduct discharge and confinement for 8 months.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, and Major Andrew S. Williams.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Lance B. Sigmon, and Major Linette I. Romer.

Before

BURD, ORR, W.E., and CONNELLY
Appellate Military Judges

OPINION OF THE COURT

CONNELLY, Judge:

The appellant was tried by special court-martial composed of a military judge sitting alone on 8 August 2002, at Seymour Johnson Air Force Base, North Carolina. He was found guilty, consistent with his pleas, of drunken operation of a vehicle and wrongfully leaving the scene of an accident, in violation of Articles 111 and 134, UCMJ, 10 U.S.C. §§ 911, 934. The military judge sentenced the appellant to a bad-conduct discharge and confinement for ten months. The convening authority approved the bad-conduct discharge and only eight months' confinement. On appeal, the appellant alleges his sentence is inappropriately severe.[1]

---

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

This Court "may affirm only such findings of guilty and the sentence or such part or amount of the sentence, as it finds correct in law and fact and determines, on the basis of the entire record, should be approved." Article 66(c), UCMJ, 10 U.S.C. § 866(c). In order to determine the appropriateness of the sentence, this Court must consider 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 (C.M.A. 1982).

While on appellate leave from a prior court-martial conviction, and having just been released from confinement, the appellant operated a friend's vehicle with a blood alcohol concentration of 0.15 grams of alcohol per 100 milliliters of blood. The appellant was involved in an accident and caused $1,900 damage to his friend's vehicle. The appellant wrongfully left the scene of the accident without making his identity known.

The appellant's military record is deplorable. In his 27 months on active duty, the appellant has compiled a prior general court-martial conviction, two non-judicial punishments, two letters of reprimand and two letters of counseling. The instant court-martial involves the operation of a vehicle in a base family housing area, when the appellant's ability to safely operate the vehicle was significantly impaired by alcohol. The appellant caused an accident involving considerable property damage, and then failed to remain at the accident scene to provide his identity. Having reviewed the entire record, we hold that the approved sentence is not inappropriately severe. *United States v. Healy*, 26 M.J. 394, 395 (C.M.A. 1988).

The approved findings and sentence are correct in law and fact and no error prejudicial to the substantial rights of the appellant occurred. Art. 66(c), UCMJ; *United States v. Reed*, 54 M.J. 37, 41 (2000). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

FELECIA M. BUTLER, TSgt, USAF
Chief Court Administrator