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

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**UNITED STATES**

**v.**

**Airman First Class BRANDON N. WILLIAMS**
**United States Air Force**

**ACM 37014**

**23 September 2008**

Sentence adjudged 06 April 2007 by GCM convened at Beale Air Force Base, California. Military Judge: Carl L. Reed II (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 3 years, and reduction to E-1.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland and Captain Lance J. Wood.

Appellate Counsel for the United States: Colonel Gerald R. Bruce and Major Donna S. Rueppell.

Before

WISE, BRAND, and HELGET
Appellate Military Judges



PER CURIAM:

A military judge sitting as a general court-martial convicted the appellant of wrongfully distributing ecstasy, a schedule I controlled substance, on divers occasions, making a false official statement, and unlawfully carrying a concealed weapon, in violation of Articles 107, 112a, and 134, UCMJ, 10 U.S.C. §§ 907, 912a, 934. The approved sentence consisted of a bad-conduct discharge, confinement for three years, and reduction to E-1.

The appellant raised one issue on appeal, pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982). The issue is whether the evidence was legally and factually

sufficient to support the findings of guilty to the distribution of ecstasy and false official statement offenses. Finding no error, we affirm.

*Background*

On or about 19 April 2006, the Air Force Office of Special Investigations (AFOSI), pursuant to a "controlled buy," arranged to have a local civilian named ST purchase "ecstasy" from the appellant. The AFOSI had previously become aware of a house in Linda, CA, that was being used by Air Force members to smoke marijuana and consume ecstasy. ST frequented the house because many of her friends were living there. ST had met the appellant at this house. The appellant was introduced by then-Airman DR as his new "drug dealer" who sells ecstasy for only $10, which was significantly less than the market rate of $20. ST was arrested in April 2006 by local authorities for possession of marijuana and decided to assist the AFOSI to mitigate her offense. ST had been involved in previous sales of ecstasy, cocaine and marijuana to military members.

On 19 April 2006, ST contacted the appellant to purchase five ecstasy pills for $10 each. They agreed to meet at Riebe's Auto Parts store where ST was employed. Prior to meeting the appellant, ST first met with the AFOSI agents at a nearby Holiday Inn Express, where the AFOSI agents conducted a search of her person and vehicle. The AFOSI agents gave ST $50 to purchase five ecstasy pills. ST then drove alone to Riebe's Auto Parts and waited for the appellant. The AFOSI agents followed her in a separate vehicle and waited in a parking lot near Riebe's. A few minutes after arriving, the appellant pulled up in a white Cadillac, got out of his car and joined ST in her vehicle. ST gave the appellant $50 in return for five ecstasy pills. Three of the pills were green, containing the initials "RL," and the other two pills were red with the initials "RB." After the appellant exited ST's vehicle, she drove back to the Holiday Inn Express where she gave the AFOSI agents the five ecstasy pills. The AFOSI also conducted another search of her person and vehicle.

On the following night, a second "controlled buy" occurred between ST and the appellant. This operation occurred essentially the same way as the first one, except the AFOSI agents met ST at a different discreet location, the appellant arrived in a black Marquis, and this time ST purchased 10 ecstasy pills from the appellant for $80. Five of the pills were green, containing the initials "RL," and five were red with the initials "RB."

Two former active duty members, DR and TL, testified about a time when they were at a local civilian's house together with several others, including a few military members. They all pooled their money and bought ecstasy from the appellant. DR also testified about a time when he bought ecstasy from the appellant for $5 a pill.

On 22 May 2006, the appellant was interviewed by the AFOSI, and told the AFOSI agents he had never distributed ecstasy and that they had the wrong guy.

*Legal and Factual Sufficiency*

The appellant asserts that the evidence is legally and factually insufficient to sustain findings of guilty to the Articles 107 and 112a, UCMJ, charges and specifications. In accordance with Article 66(c), UCMJ, 10 U.S.C. § 866(c), we review issues of legal and factual sufficiency de novo. *United States v. Washington*, 57 M.J. 394, 399 (C.A.A.F. 2002).

"The test for legal sufficiency of the evidence is 'whether, considering the evidence in the light most favorable to the prosecution, a reasonable factfinder could have found all the essential elements beyond a reasonable doubt.'" *United States v. Humpherys*, 57 M.J. 83, 94 (C.A.A.F. 2002) (quoting *United States v. Turner*, 25 M.J. 324 (C.M.A. 1987)). Our assessment of legal sufficiency is limited to the evidence produced at trial. *United States v. Dykes*, 38 M.J. 270, 272 (C.M.A. 1993).

The test for factual sufficiency is "whether, after weighing the evidence in the record of trial and making allowances for not having personally observed the witnesses, [we] are [ourselves] convinced of the accused's guilt beyond a reasonable doubt." *Turner*, 25 M.J. at 325. Review of the evidence is limited to the entire record, which includes only the evidence admitted at trial and exposed to the crucible of cross-examination. Article 66(c), UCMJ; *United States v. Bethea*, 46 C.M.R. 223, 224-25 (C.M.A. 1973).

Considering the evidence in the light most favorable to the prosecution, a reasonable fact finder could have found all the essential elements beyond a reasonable doubt. After carefully weighing the evidence in the record of trial and making allowances for not having personally observed the witnesses, we are ourselves convinced of the appellant's guilt beyond a reasonable doubt.

*Conclusion*

The approved 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; *United States v. Reed,* 54 M.J. 37, 41 (C.A.A.F. 2000).

Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL


STEVEN LUCAS, YA-02, DAF
Clerk of the Court