UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Technical Sergeant SANER WONGGOUN
United States Air Force

ACM 37338

27 April 2010

Sentence adjudged 30 July 2008 by GCM convened at Travis Air Force Base, California. Military Judge: William M. Burd (sitting alone).

Approved sentence: Dishonorable discharge, confinement for 10 years, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for the Appellant: Major Shannon A. Bennett, Major Michael A. Burnat, and Captain Reggie D. Yager.

Appellate Counsel for the United States: Colonel Douglas P. Cordova, Lieutenant Colonel Jeremy S. Weber, Captain G. Matt Osborn, and Gerald R. Bruce, Esquire.

Before

BRAND, HELGET, and GREGORY
Appellate Military Judges

PER CURIAM:

A general court-martial composed of military judge alone convicted the appellant in accordance with his pleas of voluntary manslaughter, in violation of Article 119, UCMJ, 10 U.S.C. § 919.[1] The convening authority approved the adjudged sentence of reduction to the grade of E-1, forfeiture of all pay and allowances, confinement for 10 years, and a dishonorable discharge. The appellant raises the issue of sentence

[1] The charge alleged murder (unpremeditated) in violation of Article 118, UCMJ, 10 U.S.C. § 918. Pursuant to a pretrial agreement, the appellant pled guilty to the lesser included offense of voluntary manslaughter. As permitted by the pretrial agreement, the government attempted to prove the greater offense but failed.

appropriateness, asking that no more than six years of confinement be approved. Finding no error prejudicial to the substantial rights of the appellant, we affirm.

Background

The appellant, a native of Thailand, enlisted in the Air Force in 1974. He married in 1982, and he and his wife had two children. His wife became a heavy gambler and repeatedly demanded jewelry from the appellant that she would then pawn to cover her gambling debts. In January 1994, she again demanded money from him and also informed him that she was pregnant. Knowing the baby was not his, the appellant became enraged. He grabbed a hammer from a nearby storage room and hit her on the head. He told the military judge during the plea inquiry that he was "mad" and wanted to "teach her a lesson."[2] She died on the living room floor.

The appellant wrapped her head in a plastic bag to contain the blood and brain matter and then dragged her body into the bedroom. That evening, when his children came home from school, he told them that their mother had gone to Reno. After the children left for school the next morning, the appellant put his wife's body in a trash can and then loaded it into his car. He dumped her body along the coastal highway west of Travis Air Force Base, California. About a week later, he fled to Thailand where he remained in desertion status until his arrest by Thai police in November 2006. He was returned to the control of the United States in February 2008. The appellant provided a full confession to the Air Force Office of Special Investigations.

Sentence Appropriateness

The appellant asserts that the sentence of ten years of confinement is inappropriately severe, citing his guilty plea and remorse, among other matters.[3] In reviewing sentence appropriateness, we "may affirm only such findings of guilty and the sentence or such part or amount of the sentence, as [we find] correct in law and fact and determine[], on the basis of the entire record, should be approved." Article 66(c), UCMJ, 10 U.S.C. § 866(c). We assess sentence appropriateness by considering 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, 268 (C.M.A. 1982); *United States v. Rangel*, 64 M.J. 678, 686 (A.F. Ct. Crim. App. 2007). We have a great deal of discretion in determining whether a particular sentence is appropriate, but 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).

[2] The military judge fully covered any possible mental responsibility defenses and ensured that none applied.
[3] The issue is raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).

The appellant's argument essentially renews his request for clemency and does not show that the sentence adjudged and approved is inappropriately severe. While the appellant's cooperation with law enforcement and remorse for his actions are commendable, that cooperation only came after his capture twelve years after the crime, which he attempted to conceal by dumping his wife's body out of a trash can onto the side of the road. Having given individualized consideration to this particular appellant, the nature of the offenses, and all other matters in the record of trial, we hold that the approved sentence is not inappropriately severe.

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