

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

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**UNITED STATES**

**v.**

**Airman DEREK B. ALEXANDER**  
**United States Air Force**

**ACM S30340**

**24 November 2004**

Sentence adjudged 18 February 2003 by SPCM convened at Lackland Air Force Base, Texas. Military Judge: Patrick M. Rosenow (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 2 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott and Major Andrea M. Gormel.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Robert V. Combs, and Major Lane A. Thurgood.

Before

STONE, GENT, and SMITH  
Appellate Military Judges

PER CURIAM:

We have carefully reviewed the record of trial, the appellant's single assignment of error, and the government's response. The appellant asserts that his plea to a single wrongful use of methamphetamine was improvident because the military judge failed to establish a factual basis for concluding that the appellant's use of methamphetamine was wrongful. We disagree and affirm.

Reviewing the providency inquiry as a whole, we are satisfied the appellant understood the element of wrongfulness and adequately described to the military judge in his own words why his conduct met this element of Article 112a, UCMJ, 10 U.S.C. § 912a. First, the appellant told the judge he understood this element and the doctrine of deliberate avoidance. *See United States v. Newman*, 14 M.J. 474, 478-79 (C.M.A. 1983).

Moreover, the military judge tested the appellant's understanding of this element and solicited more than a legal conclusion from the appellant as to whether his conduct fit the doctrine of deliberate avoidance, thereby establishing factual circumstances that objectively support the plea. *United States v. Jordan*, 57 M.J. 236, 238 (C.A.A.F. 2002). Additionally, the appellant voluntarily entered into a stipulation of fact that further reflects his understanding of the illicit nature of his methamphetamine use. Consequently, we hold there is no substantial basis in law and fact to question the appellant's guilty plea to Specification 1 of Charge II.

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, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE  
Clerk of Court