

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Second Lieutenant ISAAC M. ANDINO
United States Air Force

ACM 37893

05 October 2012

Sentence adjudged 8 February 2011 by GCM convened at Travis Air Force Base, California. Military Judge: W. Shane Cohen (sitting alone).

Approved sentence: Dismissal, confinement for 18 months, and a reprimand.

Appellate Counsel for the Appellant: Major Anthony D. Ortiz and Captain Robert D. Stuart.

Appellate Counsel for the United States: Colonel Don M. Christensen; Lieutenant Colonel Linell A. Letendre; Major Lauren N. DiDomenico; and Gerald R. Bruce, Esquire.

Before

GREGORY, HARNEY, and CHERRY
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

A general court-martial composed of military judge alone convicted the appellant in accordance with his pleas of one specification of making a false official statement, eight specifications of assault, and two specifications of conduct unbecoming an officer, in violation of Articles 107, 128, and 133, UCMJ, 10 U.S.C. §§ 807, 928, 933.¹ The court-martial sentenced him to a dismissal, confinement for 18 months, and a reprimand.

¹ Pursuant to a pretrial agreement, the convening authority withdrew three specifications of wrongful sexual contact, in violation of Article 120, UCMJ, 10 U.S.C. § 920, after acceptance of pleas. The pretrial agreement contained no limitations on sentence.

The convening authority approved the sentence as adjudged. The appellant assigns as error that his sentence is inappropriately severe.² We disagree.

We review sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382, 384-85 (C.A.A.F. 2005). We make such determinations in light of the character of the offender, the nature and seriousness of his offenses, and the entire record of trial. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982); *United States v. Bare*, 63 M.J. 707, 714 (A.F. Ct. Crim. App. 2006), *aff'd*, 65 M.J. 35 (C.A.A.F. 2007). Additionally, while we have a great deal of discretion in determining whether a particular sentence is appropriate, 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).

The appellant used his position as an officer in a medical squadron to prey upon junior Airmen and another officer assigned to the squadron. He assaulted them with unwanted kisses and gropings, used vulgar language toward junior Airmen, and lied to investigators when confronted with the allegations. Having considered the character of this offender, the nature and seriousness of his offenses, and the entire record of trial, we find his sentence appropriate.

Conclusion

The approved findings and the 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 the sentence are

AFFIRMED.

OFFICIAL



STEVEN LUCAS
Clerk of the Court

² The issue is raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).