UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Staff Sergeant CHAD A. ARROWSMITH
United States Air Force

ACM 37590

17 December 2010

Sentence adjudged 12 November 2009 by GCM convened at Grand Forks Air Force Base, North Dakota. Military Judge: Nancy J. Paul (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 20 months, and reduction to E-1.

Appellate Counsel for the Appellant: Colonel Raymond J. Hardy, Jr., Major Darrin K. Johns, and Captain Michael S. Kerr.

Appellate Counsel for the United States: Colonel Don M. Christensen, Major Charles G. Warren, and Gerald R. Bruce, Esquire.

Before

BRAND, GREGORY, and ROAN
Appellate Military Judges

PER CURIAM:

Pursuant to his pleas, a general court-martial composed of a military judge convicted the appellant of one specification of wrongfully and knowingly possessing one or more visual depictions of a minor engaging in sexually explicit conduct, in violation of Article 134, UCMJ, 10 U.S.C. § 934. The adjudged sentence consists of a bad-conduct discharge, 20 months of confinement, forfeitures of all pay and allowances and reduction to E-1. The convening authority disapproved the forfeitures but approved the remainder of the adjudged sentence. On appeal, the appellant asks this court to disapprove the punitive discharge. After a careful review of the record of trial, to include the appellant's post-trial submissions, we decline.

Background

While using an internet file sharing program, the appellant searched for and downloaded 18 pictures and two videos depicting minor children engaging in sexual activities with adults and other children. After viewing the images, he stored them on the hard drive of his personal computer. At trial, the appellant admitted to his misconduct, but now argues that his sentence to a bad-conduct discharge was too severe.[1]

Sentence Appropriateness

We review sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382, 383-84 (C.A.A.F. 2005). We make such determinations in light of the character of the offender, the nature and seriousness of the offense, 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 task of granting clemency, which "involves bestowing mercy—treating an accused with less rigor than he deserves," is assigned to the convening authority and other officials. *Healy*, 26 M.J. at 395-96.

The appellant points to his demonstrated remorse, good character, lengthy military service and repeated deployments, excellent work performance and high rehabilitation potential to support his argument that a punitive discharge is too severe under the circumstances. While the appellant's service history is otherwise commendable, his possession of graphic images and videos showing numerous children engaging in sexual activities warrants the approved sentence.

Having given individualized consideration to this particular appellant, the nature of the offense, the appellant's record of service, and all 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, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000).

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

Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

STEVEN LUCAS
Clerk of the Court