

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

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UNITED STATES

v.

**Technical Sergeant CHRISTOPHER ASUNCION JR.**  
**United States Air Force**

**ACM 36946**

**19 August 2008**

Sentence adjudged 19 January 2007 by GCM convened at Holloman Air Force Base, New Mexico. Military Judge: Bryan D. Watson.

Approved sentence: Bad-conduct discharge, confinement for 12 months, and reduction to E-1.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland, Major Shannon A. Bennett, Major Christopher Ferretti, and Captain Phillip T. Korman.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Major Matthew S. Ward, and Major Amy E. Hutchens.

Before

FRANCIS, HEIMANN, and THOMPSON  
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

Consistent with his pleas, the appellant was convicted of five specifications of larceny of military property (money) in excess of \$500 and five specifications of submitting fraudulent invoices to facilitate the thefts, in violation of Articles 121 and 123, UCMJ, 10 U.S.C. §§ 921, 923. The approved sentence, adjudged by a panel of officer and enlisted members, includes a bad-conduct discharge, confinement for 12 months, and reduction to E-1. The appellant asserts that a sentence which includes a bad-conduct discharge and 12 months confinement is inappropriately severe, considering that he made full restitution to the government and stands to lose his anticipated retirement benefits.

This Court reviews sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382 (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. 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 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); *United States v. Dodge*, 59 M.J. 821, 829 (A.F. Ct. Crim. App. 2004).

The appellant, over a period of almost two years, used his unit's Government Purchase Card and multiple fraudulent invoices to buy more than \$28,000 worth of merchandise for his personal use.<sup>1</sup> At the time of trial, he had over 21 years of military service and, in accordance with the terms of a pre-trial agreement (PTA), had fully reimbursed the government for the cost of the items he wrongfully procured.<sup>2</sup>

There is no doubt that a bad-conduct discharge and 12 months confinement is a significant price to pay for the appellant's crimes. Further, the fact that he fully reimbursed the government certainly counts in his favor. Nonetheless, we do not find his sentence to be inappropriately severe. Considering the number and seriousness of his offenses, and weighing the appellant's service record, the potential loss of his retirement benefits, and all other matters properly contained within the record, the approved sentence is fair, just, and appropriate.

### *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).

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<sup>1</sup> The Government Purchase Card is an official government credit card used for procurement of goods and services below specified cost levels.

<sup>2</sup> The total value of the items wrongfully procured by the appellant, as set forth in the charges and specifications of which he stands convicted, is \$28,888.91. The PTA required the appellant to reimburse the government for the loss. To fulfill that requirement, the appellant issued a check to the government in the amount of \$29,278.11 the day before his court-martial.

Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL



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