

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman TODD L. BOUTTE
United States Air Force

ACM 36527

28 March 2007

Sentence adjudged 29 September 2005 by GCM convened at Moody Air Force Base, Georgia. Military Judge: Jennifer A. Whittier (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 17 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Nikki A. Hall and Major John N. Page III.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Lieutenant Colonel Robert V. Combs, and Major Matthew S. Ward.

Before

BROWN, BECHTOLD, and BRAND
Appellate Military Judges

PER CURIAM:

The appellant was convicted, in accordance with his pleas, of two specifications of conspiracy, two specifications of sale or wrongful disposition of military property, and one specification of larceny of military property in violation of Articles 81, 108, and 121 UCMJ, 10 U.S.C. §§ 881, 908, 921. He was also convicted, contrary to his plea, of one specification of wrongful use of amphetamine in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. His approved sentence consists of a bad-conduct discharge, confinement for 17 months, and reduction to the grade of E-1.

On appeal, the appellant alleges error in that the military judge admitted a positive result from a urinalysis drug test in violation of the confrontation clause under the Sixth

Amendment of the United States Constitution. We find this issue to be without merit and we affirm.

As the appellant's counsel correctly pointed out in their brief, the Court of Appeals for the Armed Forces answered this issue in the negative in *United States v. Magyari*, 63 M.J. 123 (C.A.A.F. 2006). At the time of the appellant's brief, *Magyari* was before the United States Supreme Court on appeal. On 2 October 2006, certiorari was denied. *Magyari v. United States*, 127 S. Ct. 323 (2006).

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 findings and sentence are

AFFIRMED.

OFFICIAL

LOUIS T. FUSS, TSgt, USAF
Chief Court Administrator