

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class MARIO L. CARTER
United States Air Force**

ACM 35027 (f rev)

26 May 2006

Sentence adjudged 19 September 2005 by GCM convened at Brooks City-Base, Texas. Military Judge: Joseph E. Cole (sitting alone)

Approved sentence: Bad-conduct discharge, confinement for 10 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Colonel Carlos L. McDade, Lieutenant Colonel Mark R. Strickland, Lieutenant Colonel Robin S. Wink, Major Terry L. McElyea, Major Jennifer K. Martwick, and Captain Christopher S. Morgan.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Colonel Gary F. Spencer, Lieutenant Colonel Lance B. Sigmon, Lieutenant Colonel Robert V. Combs, Major James K. Floyd, Major Shannon J. Kennedy, and Major C. Taylor Smith.

Before

ORR, JOHNSON, and JACOBSON
Appellate Military Judges

UPON FURTHER REVIEW

PER CURIAM:

Pursuant to his pleas, the appellant was convicted of wrongful use of marijuana on divers occasions, distribution of marijuana on divers occasions, distribution of cocaine, and introduction of marijuana and cocaine onto Brooks Air Force Base, Texas, with the intent to distribute, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. Additionally, the appellant was convicted of an indecent assault, contrary to his plea, in violation of Article 134, UCMJ, 10 U.S.C. § 934. The convening authority approved a sentence of a

bad-conduct discharge, confinement for 3 years, forfeiture of all pay and allowances, and reduction to E-1.

On 17 October 2003, this Court affirmed the finding of guilt to Charge II and its Specifications, but set aside the finding of guilt to Charge I and its Specification and the sentence because we held that the trial counsel's argument on findings was improper. Additionally we authorized a rehearing. *United States v. Carter*, ACM 35027 (A.F. Ct. Crim. App. 17 Oct 2003) (unpub. op.). On 16 December 2003, The Judge Advocate of the Air Force certified the case to the United States Court of Appeals for the Armed Forces (CAAF) for review. On 18 April 2005, the CAAF affirmed this Court's decision. *United States v. Carter*, 61 M.J. 30 (C.A.A.F. 2005).

Upon remand from The Judge Advocate General, the convening authority elected to dismiss Charge I and its Specification and ordered a sentence rehearing on Charge II and its Specifications. At the sentence rehearing, the military judge sentenced the appellant to a bad-conduct discharge, confinement for 10 months, and reduction to E-1. The convening authority approved the sentence as adjudged.

The appellant has submitted the record for further review without asserting any additional errors. Our review discloses no substantive error. 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

LOUIS T. FUSS, TSgt, USAF
Chief Court Administrator