

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Technical Sergeant **DONNA L. CRANE**
United States Air Force

ACM S31063

26 September 2007

Sentence adjudged 17 December 2005 by SPCM convened at MacDill Air Force Base, Florida. Military Judge: Bruce Ambrose.

Approved sentence: Bad-conduct discharge and reduction to E-4.

Appellate Counsel for Appellant: Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, and Captain Anthony D. Ortiz.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Major Matthew S. Ward, and Major Kimani R. Eason.

Before

SCHOLZ, JACOBSON, and THOMPSON
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

Contrary to her plea, the appellant was convicted of one specification of wrongful use of marijuana in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. A special court-martial comprised of officer and enlisted members sentenced the appellant to a bad-conduct discharge and reduction to the grade of E-4. The convening authority approved the adjudged sentence. On appeal, the appellant asserts two errors: (1) The evidence is legally and factually insufficient to sustain a conviction; and (2) Her sentence is inappropriately severe.¹ We find the assignments of error to be without merit and affirm.

¹ Both assignments of error are filed pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).

Legal and Factual Sufficiency

We review each court-martial record de novo to consider its legal and factual sufficiency. Article 66(c), UCMJ, 10 U.S.C. § 866(c); *United States v. Washington*, 57 M.J. 394, 399 (C.A.A.F. 2002). With regard to legal sufficiency, we ask whether, considering the evidence in the light most favorable to the prosecution, a reasonable fact finder could have found all of the elements of the offense proven beyond a reasonable doubt. For factual sufficiency, we weigh the evidence in the record of trial and, after making allowances for not having personally observed the witnesses, determine whether we ourselves are convinced beyond a reasonable doubt of the appellant's guilt. *United States v. Sills*, 56 M.J. 239, 240-41 (C.A.A.F. 2002); *United States v. Turner*, 25 M.J. 324, 325 (C.M.A. 1987).

We have carefully reviewed the record of trial and conclude there is no question that the government presented legally sufficient evidence to support the findings in this case. We find that reasonable court-members, having heard all the evidence, and having been properly instructed by the military judge, could have found beyond a reasonable doubt that the appellant wrongfully used marijuana. Furthermore, after reviewing the record of trial, we are convinced beyond a reasonable doubt that the appellant is guilty of wrongful use of marijuana.

Sentence Appropriateness

This Court has the authority to review sentences pursuant to Article 66(c), UCMJ, and to reduce or modify sentences we find inappropriately severe. Generally, we make this determination in light of the character of the offender and the seriousness of her offense. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982). We may also take into account disparities between sentences adjudged for similar offenses. *United States v. Wacha*, 55 M.J. 266, 267 (C.A.A.F. 2001). Our duty to assess the appropriateness of a sentence is "highly discretionary," but does not authorize us to engage in an exercise of clemency. *United States v. Lacy*, 50 M.J. 286, 287 (C.A.A.F. 1999); *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988). We have given individualized consideration to this particular appellant and carefully reviewed the facts and circumstances of this case.

The appellant's sentence is within legal limits and no error prejudicial to the appellant's substantial rights occurred during the findings or sentencing proceedings. After carefully examining the submissions of counsel, taking into account all the facts and circumstances surrounding the crime of which the appellant was found guilty, we do not find the appellant's sentence inappropriately severe. *Snelling*, 14 M.J. at 268.

Conclusion

The 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; *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the findings and sentence are

AFFIRMED.

OFFICIAL



STEVEN LUCAS, GS-11, DAF
Clerk of the Court