

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Technical Sergeant DAVID K. CRAVEN
United States Air Force**

ACM 34974 (f rev)

18 April 2005

Sentence adjudged 15 June 2004 by GCM convened at Schriever Air Force Base, Colorado. Military Judge: Kurt D. Schuman.

Approved sentence: Bad-conduct discharge, confinement for 6 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, Major Kyle R. Jacobson, Major Bryan A. Bonner, Major Sandra K. Whittington, and Captain David P. Bennett.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Gary F. Spencer, Lieutenant Colonel Lance B. Sigmon, Lieutenant Colonel Robert V. Combs, Major Matthew J. Mulbarger, and Captain C. Taylor Smith.

Before

**MALLOY, JOHNSON, and GRANT
Appellate Military Judges**

UPON FURTHER REVIEW

PER CURIAM:

We have examined the record of trial, the assignment of error, and the government's response thereto. This case is before us upon further review following a rehearing on the sentence for the offenses of wrongful use of marijuana and cocaine. The appellant asserts that the military judge abused his discretion when he provided improper and incomplete advice to the appellant regarding a stipulation of expected testimony admitted at the rehearing.

We find the military judge correctly elicited from the appellant his understanding of the contents of the stipulation, his right to not stipulate, and his consent to its use. Rule for Courts-Martial (R.C.M.) 811(c), Discussion. Further, upon review of the record it is clear that the military judge exercised sound discretion and was satisfied that the parties consented prior to the admission of the stipulation. *See* R.C.M. 811(c). We hold that the military judge did not abuse his discretion. *See United States v. Cambridge*, 12 C.M.R. 133 (C.M.A. 1953); *United States v. Barbeau*, 9 M.J. 569, 571 (A.F.C.M.R. 1980).

The findings and the 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 the sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court