

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman DAVID S. CURRIE
United States Air Force**

ACM 35436

29 April 2005

Sentence adjudged 19 September 2002 by GCM convened at Pope Air Force Base, North Carolina. Military Judge: John J. Powers.

Approved sentence: Dishonorable discharge, confinement for 24 months, forfeiture of all pay and allowances, a \$1,500.00 fine, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Lieutenant Colonel Brandon A. Burnett, Major Terry L. McElyea, Major Andrew S. Williams, Major Andrea M. Gormel, and Captain Diane M. Paskey.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Robert V. Combs, and Major Michelle M. Lindo.

Before

STONE, GENT, and SMITH
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignment of error, and the government's reply thereto. The appellant asserts the evidence at trial was legally insufficient to prove beyond a reasonable doubt that he deliberately concealed pre-service cocaine use to secure enlistment in the United States Air Force, in violation of Article 83, UCMJ, 10 U.S.C. § 883.¹ Finding no error, we affirm.

The test for legal sufficiency is whether any rational trier of fact, when viewing the evidence in the light most favorable to the government, could have found the appellant guilty of all elements of the offense beyond a reasonable doubt. *Jackson v.*

¹ This issue was raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).

Virginia, 443 U.S. 307, 319 (1979); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000).

Abundant evidence proves the appellant deliberately concealed his pre-service cocaine use on documents completed during his enlistment process. The record also establishes that the appellant used cocaine, a narcotic, for several years prior to his enlistment in the Air Force. Moreover, individuals applying for enlistment in the Air Force are ineligible to enlist if they have “been involved with narcotics.” Air Force Instruction (AFI) 36-2002, *Regular Air Force and Special Category Accessions*, Attachment 2, ¶ A2.1.1 (7 Apr 1999). Finally, the appellant received pay and allowances from the time he entered active duty. Considering the evidence in the light most favorable to the prosecution, we conclude any rational trier of fact would have found the appellant guilty of all the essential elements of fraudulent enlistment. Moreover, we are ourselves convinced of the appellant’s guilt beyond a reasonable doubt. *United States v. Turner*, 25 M.J. 324 (C.M.A. 1987); *United States v. Walters*, 58 M.J. 391, 395 (C.A.A.F. 2003).

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); *Reed*, 54 M.J. at 41. Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court