

**UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

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**UNITED STATES**

**v.**

**Airman First Class PHILIP K. DEGARMO  
United States Air Force**

**ACM S30258**

**13 January 2005**

Sentence adjudged 9 October 2002 by SPCM convened at Francis E. Warren Air Force Base, Wyoming. Military Judge: Anne L. Burman (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 4 months, and reduction to E-1.

Appellate Counsel for Appellant: Major Terry L. McElyea and Major Andrew S. Williams.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Robert V. Combs, and Major Shannon J. Kennedy.

Before

**PRATT, ORR, and MOODY**  
Appellate Military Judges

**PER CURIAM:**

We have examined the record of trial, the assignment of error, and the government's reply thereto. The appellant was charged with violating Air Force Instruction (AFI) 33-129, *Transmission of Information Via the Internet*, ¶ 6.1.3 (4 Apr 2001), by wrongfully processing or displaying pornographic images on a government computer, in violation of Article 92, UCMJ, 10 U.S.C. § 892. During the providence inquiry, the appellant admitted that he had accessed pornographic images while utilizing a government-owned computer at the Learning Resource Center located on base. He also admitted that AFI 33-129 was punitive, that it was in effect during the time alleged, and that his access of the pornographic images violated the instruction.

We conclude that the appellant provided facts that objectively supported a plea of guilty. We find no “‘substantial basis’ in law and fact” for questioning the appellant’s plea (*United States v. Milton*, 46 M.J. 317, 318 (C.A.A.F. 1997)), and hold that the military judge did not abuse her discretion by accepting it. See *United States v. Eberle*, 44 M.J. 374 (C.A.A.F. 1996).

The approved findings and sentence are correct in law and fact, and no error prejudicial to the substantial rights of the appellant was committed. Article 66(c), UCMJ, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). On the basis of the entire record, the approved findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE  
Clerk of Court