

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class ERIN R. DROLLINGER-SCARBROUGH
United States Air Force**

ACM 34577

31 May 2002

Sentence adjudged 30 April 2001 by GCM convened at Maxwell Air Force Base, Alabama. Military Judge: Thomas G. Crossan Jr. (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 8 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for Appellant: Lieutenant Colonel Beverly B. Knott, Lieutenant Colonel Timothy W. Murphy, and Major Jeffrey A. Vires.

Appellate Counsel for the United States: Colonel Anthony P. Dattilo and Major Lance B. Sigmon.

Before

SCHLEGEL, ROBERTS, and PECINOVSKY
Appellate Military Judges

PER CURIAM:

We withdraw our opinion issued on 29 November 2001.

The appellant, pursuant to her pleas, was convicted of the wrongful use of cocaine, methamphetamine, and 3,4-methylenedioxymethamphetamine (ecstasy), and wrongful distribution of ecstasy, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. The military judge announced a sentence that included a bad-conduct discharge, confinement for 8 months, forfeiture of all pay and allowances for 8 months, and reduction to the grade of E-1. In accordance with a pretrial agreement, the convening authority suspended confinement in excess of 4 months for a period of 8 months. In an apparent effort to correct the judge's sentence regarding forfeitures, the convening authority approved total forfeitures of pay and allowances without limitation. The appellant

contends the convening authority's action increased her punishment, and asks us to disapprove forfeitures. The government concedes error.

The findings are affirmed. We reassess the sentence and approve only so much of the sentence as provides for a bad-conduct discharge, confinement for 8 months, forfeiture of \$1042.00 pay per month for 8 months, and reduction to the grade of E-1. However, confinement in excess of 4 months is suspended for 8 months at which time, unless sooner vacated, the suspended part of the sentence to confinement will be remitted without further action. Further, the forfeitures in the amount of \$1042.00 are approved until such time as the approved and unsuspended confinement is lawfully terminated. Thereafter, in the event the appellant only serves confinement for 4 months, forfeiture of \$687.00 pay per month for four months is approved. Article 66(c), UCMJ, 10 U.S.C. § 866(c).

AFFIRMED.

OFFICIAL

HEATHER D. LABE
Clerk of Court