

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class AMZIE B. EASTERLING
United States Air Force**

ACM S31042

16 February 2007

Sentence adjudged 5 December 2005 by SPCM convened at Maxwell Air Force Base, Alabama. Military Judge: Bruce S. Ambrose (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 9 months, forfeiture of 2/3 pay per month for 9 months, and reduction to E-1.

Appellate Counsel for Appellant: Lieutenant Colonel Mark R. Strickland, Captain Kimberly A. Quedensley, and Captain John S. Fredland.

Appellate Counsel for the United States: Colonel Gerald R. Bruce.

Before

BROWN, MATHEWS, and SOYBEL
Appellate Military Judges

PER CURIAM:

This case was submitted to us on its merits for appellate review. The appellant pled guilty to a single charge and specification alleging he wrongfully used cocaine on divers occasions, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. The appellant's pleas were provident, and we affirm the findings of guilty as to both the Charge and its Specification.

We note, however, one error requiring corrective action: the military judge, when announcing sentence, stated that the appellant would be reduced to the grade of E-1 and forfeit "two-thirds pay each month for nine months." Rule for Courts-Martial (R.C.M.) 1003(b)(2) requires that any adjudged forfeiture less than total forfeiture be announced in whole dollars: thus, rather than stating "two-thirds pay," the military judge should have stated "eight hundred twenty-three dollars." Because R.C.M. 1003(b)(2) requires

forfeitures to be expressed as whole dollars, this amount is slightly less than two-thirds of the appellant's pay as an E-1 with over two years of service. The sentence announced by the military judge, and subsequently approved by the convening authority, was thus larger than that permitted by the Rules for Courts-Martial.

We reassess the appellant's sentence to conform to R.C.M. 1003(b)(2) as follows: a bad-conduct discharge, confinement for 9 months, forfeiture of \$823.00 pay per month for 9 months, and reduction to the grade of E-1. Further, we find this sentence to be appropriate for this appellant and his crimes.

The findings and the sentence, as reassessed, 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, as reassessed, are

AFFIRMED.

OFFICIAL

LOUIS T. FUSS, TSgt, USAF
Chief Court Administrator