

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman Basic VINCENT J. GALLEGOS
United States Air Force**

ACM S31966

13 December 2012

Sentence adjudged 1 June 2011 by SPCM convened at Ramstein Air Base, Germany. Military Judge: Dawn R. Eflein (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 4 months, and forfeiture of \$500.00 pay per month for 4 months.

Appellate Counsel for the Appellant: Major Anthony D. Ortiz.

Appellate Counsel for the United States: Colonel Don M. Christensen; Lieutenant Colonel Linell A Letendre; Captain Erika L Sleger; and Gerald R. Bruce, Esquire.

Before

GREGORY, HARNEY, and CHERRY
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

A general court-martial composed of military judge alone convicted the appellant in accordance with his pleas of failure to follow a lawful general order, false official statement, use of Lysergic Acid Diethylamide (LSD), and use of "Spice," in violation of Articles 92, 107, 112a, and 134, UCMJ, 10 U.S.C. §§ 892, 907, 912a, 934. The court-martial sentenced him to a bad-conduct discharge, confinement for 4 months, and forfeitures of \$500.00 pay per month for four months. The convening authority approved

the sentence as adjudged. The appellant assigns as error that his sentence is inappropriately severe.* We disagree.

We review sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382, 384-85 (C.A.A.F. 2005). We make such determinations in light of the character of the offender, the nature and seriousness of his offenses, and the entire record of trial. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982); *United States v. Bare*, 63 M.J. 707, 714 (A.F. Ct. Crim. App. 2006), *aff'd*, 65 M.J. 35 (C.A.A.F. 2007). Additionally, while we have a great deal of discretion in determining whether a particular sentence is appropriate, we are not authorized to engage in exercises of clemency. *United States v. Lacy*, 50 M.J. 286, 288 (C.A.A.F. 1999); *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988).

The appellant used both LSD and Spice on multiple occasions. Additionally, he failed to follow a lawful general order by staying out after curfew and then lied about it when questioned by Security Forces. The adjudged and approved sentence was well below the maximum permissible for such serious and repetitious offenses. Having considered the character of this offender, the nature and seriousness of his offenses, and the entire record of trial, we find his sentence appropriate.

Conclusion

The approved 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 approved findings and the sentence are

AFFIRMED.

OFFICIAL



STEVEN LUCAS
Clerk of the Court

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