

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman Basic DREXEL T. GARLAND, JR.
United States Air Force

ACM S31296

28 December 2007

Sentence adjudged 21 February 2007 by SPCM convened at Misawa Air Base, Japan. Military Judge: Steven A. Hatfield (sitting alone).

Approved sentence: See opinion.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland, Major Karen L. Hecker, and Captain Anthony D. Ortiz.

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

Before

FRANCIS, SOYBEL, and BRAND
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

This case is before us on its merits. The appellant, consistent with his pleas, was convicted of dereliction of duty, wrongful use of marijuana on divers occasions, and wrongful distribution of marijuana, in violation of Articles 92 and 112a, UCMJ, 10 U.S.C. §§ 892, 912a. His adjudged sentence consisted of a bad-conduct discharge and confinement for 8 months. However, the convening authority's action in this case states "only so much of the sentence as provides for 4 months confinement is approved and, except for the bad-conduct discharge, will be executed."

We find the convening authority's action fails to either approve or disapprove the bad-conduct discharge. Because the convening authority's action is ambiguous, the action was improperly completed. Accordingly, we return the record of trial to The Judge Advocate General for remand to the convening authority to withdraw the erroneous

action and substitute a corrected action and promulgating order. Rule for Courts-Martial 1107(g). Thereafter, if the bad-conduct discharge is approved, Article 66, UCMJ, 10 U.S.C. § 866, shall apply.

OFFICIAL



STEVEN LUCAS, GS-11, DAF
Clerk of the Court