

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Senior Airman MICHAEL A. JACKSON
United States Air Force

ACM 37820

29 March 2012

Sentence adjudged 1 November 2010 by GCM convened at Scott Air Force Base, Illinois. Military Judge: Matthew Van Dalen (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 10 months, and reduction to E-1.

Appellate Counsel for the Appellant: Major Michael S. Kerr and Major Tiwana L. Wright.

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

Before

ORR, GREGORY, and WEISS
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

A general court-martial composed of a military judge alone convicted the appellant, in accordance with his pleas, of possessing and receiving images and videos of child pornography, in violation of Article 134, UCMJ, 10 U.S.C. § 934, and sentenced him to a bad-conduct discharge, confinement for 10 months, forfeiture of \$1,000.00 pay per month for 10 months, and reduction to E-1.¹ A pretrial agreement capped

¹ The military judge accepted the appellant's pleas of guilty to four specifications: (1) possessing photographic depictions of child pornography; (2) possessing video depictions of child pornography; (3) receiving photographic depictions of child pornography; and (4) receiving video depictions of child pornography. A fifth specification of distributing child pornography was dismissed pursuant to a pre-trial agreement.

confinement at 20 months. The convening authority approved the sentence adjudged, except for the forfeitures, and waived the resulting mandatory forfeitures for the benefit of the appellant's spouse and dependent children.

The appellant argues that the convening authority could not waive automatic forfeitures because the adjudged forfeitures were not disapproved. *See United States v. Emminizer*, 56 M.J. 441 (C.A.A.F. 2002). Government appellate counsel correctly notes in response that the action of the convening authority clearly disapproves the adjudged forfeitures: “[O]nly so much of the sentence as provides for confinement for 10 months, reduction to the grade of E-1, and a bad conduct discharge is approved” Having disapproved the adjudged forfeitures, the convening authority properly waived all mandatory forfeitures for six months or release from confinement, whichever is sooner, with the waiver commencing on 15 November 2010. Article 58b, UCMJ, 10 U.S.C. § 858b; *Emminizer*.

The approved findings and sentence are correct in law and fact, and no error prejudicial to the substantial rights of the appellant occurred.² 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 sentence are

AFFIRMED.

OFFICIAL



STEVEN LUCAS
Clerk of the Court

² The court martial order (CMO) requires correction to: (1) include the date on page one; and (2) correct the dates on pages two and three – all should read 5 January 2011, the date of the Action. We order the promulgation of a corrected CMO. *See* Rule for Courts-Martial 1114(c)(2).