

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

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UNITED STATES

v.

Senior Airman ANESHA C. JENNINGS  
United States Air Force

ACM S31447

30 January 2009

Sentence adjudged 22 January 2008 by SPCM convened at Francis E. Warren Air Force Base, Wyoming. Military Judge: Timothy D. Wilson (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 3 months, forfeiture of \$893.00 pay per month for 3 months, and reduction to E-1.

Appellate Counsel for the Appellant: Colonel Raymond J. Hardy, Jr., Major Shannon A. Bennett, and Captain Michael A. Burnat.

Appellate Counsel for the United States: Colonel Gerald R. Bruce and Major Jeremy S. Weber.

Before

WISE, BRAND, and HELGET  
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

In accordance with her pleas, the appellant was found guilty of one specification of dereliction of duty, one specification of larceny, one specification of wrongful appropriation, and one specification of conduct prejudicial to good order and discipline, in violation of Articles 92, 121, and 134, UCMJ, 10 U.S.C. §§ 892, 921, 934.<sup>1</sup> The approved sentence consists of a bad-conduct discharge, confinement for three months, forfeiture of \$893.00 pay per month for three months, and reduction to E-1.

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<sup>1</sup> This Court notes the wrong military trial judge is listed on the court-martial order (CMO), dated 5 March 2008. We order the promulgation of a corrected CMO, listing Colonel Timothy D. Wilson as the military trial judge.

The issue on appeal, raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), is whether the portion of the appellant's sentence which includes a bad-conduct discharge is inappropriately severe.

### *Background*

On 24 January 2006, the appellant's husband, DJ, was barred from Francis E. Warren Air Force Base (AFB), Wyoming, pursuant to an administrative discharge action. The appellant had knowledge of the barment order because on 26 February 2007, she requested the Wing Commander set aside the barment order. On 5 April 2007, the Wing Commander denied her request, and the barment remained in effect until 24 January 2009. On or about 21 November 2007, contrary to the barment order, the appellant willfully transported her husband onto Francis E. Warren AFB and allowed him to enter the Commissary.

Between on or about 1 June 2007 and on or about 15 June 2007, the appellant, while working in the Customer Service section of the 90th Comptroller Squadron, assisted Airman Basic (AB) MS with completing an official travel voucher for \$688.00. Once AB MS left the appellant's desk, the appellant changed the bank account routing number on AB MS's travel voucher to her own USAA checking account routing number. On 11 June 2007, the \$688.00 from the United States Air Force was electronically transferred to the appellant's USAA bank account. The appellant used the currency for various purchases and never repaid the United States.

On 21 May 2007, the appellant went online and applied for a loan of \$200.00 from Cash America Net of Wyoming, LLC, also known as CashNetUSA.com. The appellant wrongfully used the name, social security number, and address of Airman First Class (A1C) SP when applying for the loan. The appellant wrongfully obtained A1C SP's personal information when she assisted A1C SP in completing various documents. CashNetUSA.com subsequently deposited \$200.00 into the appellant's bank account. At all times the appellant intended to repay CashNetUSA.com the \$200.00 and did, in fact, repay the full amount, including interest and a late fee, prior to trial.

On or about 17 November 2006, while at work and on duty, the appellant used her government computer and the Reserve Travel Pay System to wrongfully acquire the social security number of then-A1C AA. The appellant then used A1C AA's name and social security number to apply on-line for a check-cashing loan account with CheckCity.com in A1C AA's name.

### *Inappropriately Severe Sentence*

This Court reviews sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382, 383-84 (C.A.A.F. 2005). We "may affirm only such findings of guilty and the

sentence or such part or amount of the sentence, as [we find] correct in law and fact and determine[], on the basis of the entire record, should be approved.” Article 66(c), UCMJ, 10 U.S.C. § 866(c). “We assess sentence appropriateness by considering the particular appellant, the nature and seriousness of the offenses, the appellant’s record of service, and all matters contained in the record of trial.” *United States v. Bare*, 63 M.J. 707, 714 (A.F. Ct. Crim. App. 2006) (citing *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988); *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982)), *aff’d*, 65 M.J. 35 (C.A.A.F. 2007). We have a great deal of discretion in determining whether a particular sentence is appropriate but are not authorized to engage in exercises of clemency. *United States v. Lacy*, 50 M.J. 286, 288 (C.A.A.F. 1999); *Healy*, 26 M.J. at 395-96.

The maximum punishment in this case was the jurisdictional limit for a special court-martial, which includes a maximum of 12 months confinement and a bad-conduct discharge. The appellant’s approved sentence was a bad-conduct discharge, confinement for three months, forfeiture of \$893.00 pay per month for three months, and reduction to E-1. Having given individualized consideration to this particular appellant, the nature of the offenses, the appellant’s record of service, and all other matters in the record of trial,<sup>2</sup> we hold that the approved sentence is not inappropriately severe.

#### *Conclusion*

The approved findings and sentence are correct in law and fact and no error prejudicial to the substantial rights of the appellant occurred. Article 66(c), UCMJ; *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the approved findings and sentence are

AFFIRMED.

Senior Judge BRAND did not participate.

OFFICIAL



STEVEN LUCAS, YA-02, DAF  
Clerk of the Court

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<sup>2</sup> At the time of her court-martial, the appellant was 22 years old and had been on active duty since 15 July 2003. The appellant had been recognized as the 90th Comptroller Squadron Airman of the Quarter for the fourth quarter in 2004 and as the 90th Comptroller Squadron Airman of the Year for 2004. However, in addition to the charged offenses, the appellant’s military record included nonjudicial punishment for dishonorable failure to pay her electric bill and a letter of reprimand for failure to pay her Army and Air Force Exchange Service bill.