

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman Basic DANIEL E. LASKOWSKI
United States Air Force

ACM 36870

20 August 2007

Sentence adjudged 23 August 2006 by GCM convened at Moody Air Force Base, Georgia. Military Judge: W. Thomas Cumbie (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 100 days, and forfeiture of all pay and allowances.

Appellate Counsel for Appellant: Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, and Captain Anthony D. Ortiz.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Major Matthew S. Ward, Captain Jamie L. Mendelson, and Legal Intern Sarah E. Bateman.

Before

FRANCIS, SOYBEL, and BRAND
Appellate Military Judges

PER CURIAM:

In accordance with his plea, the appellant was convicted of one specification of wrongful use of cocaine, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. The approved sentence consists of a bad conduct discharge, confinement for 100 days, and total forfeitures of all pay and allowances.

The appellant asserts that his sentence is inappropriately severe, particularly the bad-conduct discharge.* 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 offense, the appellant’s record of service, and all matters contained in the record of trial. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982).

* Raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).

The appellant used cocaine a few days before his random urinalysis in May 2006. He had, since day one, been trying to get out of the Air Force. When called in for questioning, the appellant stated in his AF Form 1168 "I've been praying to God to help me find peace and a way to get out. I am ashamed that it had to be like this."

During the pre-sentencing portion of the trial, the trial defense counsel informed the trial judge that she would be asking for a bad-conduct discharge in lieu of confinement on behalf of her client. The trial judge conducted an appropriate and thorough colloquy with the appellant which lasted four pages in the record of trial.

After a careful review of the record of trial, to include the appellant's post-trial submissions, we conclude the appellant's sentence, including the bad-conduct discharge, 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 findings and sentence are

AFFIRMED.

Judge FRANCIS did not participate.

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