

**UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

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**UNITED STATES**

**v.**

**Airman VALENTINO T. LEE  
United States Air Force**

**ACM S32009**

**14 March 2013**

Sentence adjudged 25 October 2011 by SPCM convened at Malmstrom Air Force Base, Montana. Military Judge: Vance H. Spath (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 120 days, and reduction to E-1.

Appellate Counsel for the Appellant: Major Andrew J. Unsicker.

Appellate Counsel for the United States: Colonel Don M. Christensen and Gerald R. Bruce, Esquire.

Before

**GREGORY, HARNEY, and SOYBEL  
Appellate Military Judges**

This opinion is subject to editorial correction before final release.

**PER CURIAM:**

A special court-martial composed of military judge alone convicted the appellant in accordance with his pleas of distribution and use of marijuana on multiple occasions, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a; communicating a threat, in violation of Article 134, UCMJ, 10 U.S.C. § 934; and violating a lawful order by using Spice on multiple occasions, in violation of Article 92, UCMJ, 10 U.S.C. § 892. The court sentenced him to a bad-conduct discharge, confinement for 120 days, and reduction to the grade of E-1. The convening authority approved the sentence as adjudged. The appellant assigns as error that his sentence is inappropriately severe.\* We disagree.

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

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). Applying these principles to the appellant's offenses and military record, we find the 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.



FOR THE COURT

A handwritten signature in cursive script, appearing to read "Laquitta J. Smith".

LAQUITTA J. SMITH

Appellate Paralegal Specialist