

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class DAVID A. LEEDY
United States Air Force**

ACM 35939

28 February 2006

Sentence adjudged 11 January 2004 by GCM convened at Kunsan Air Base, Republic of Korea. Military Judge: Dawn R. Eflein.

Approved sentence: Bad-conduct discharge, confinement for 7 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Carlos L. McDade, Lieutenant Colonel Mark R. Strickland, Major Sandra K. Whittington, and Captain Christopher S. Morgan.

Appellate Counsel for the United States: Lieutenant Colonel Gary F. Spencer, Major Michelle M. McCluer, and Major Heather L. Mazzeno.

Before

STONE, SMITH, and MATHEWS
Appellate Military Judges

PER CURIAM:

We reviewed the record of trial, the appellant's assignment of error, the government's answer, and the appellant's reply thereto. The appellant challenges the military judge's ruling denying his motion to suppress evidence seized from his personal computer. We review under an abuse of discretion standard, considering the evidence in the light most favorable to the prevailing party. *United States v. Rodriguez*, 60 M.J. 239, 246-47 (C.A.A.F. 2004) (citing *United States v. Monroe*, 52 M.J. 326, 330 (C.A.A.F. 2000)).

We find no error here. The military judge's findings were thorough, detailed, and amply supported by the evidence, and we adopt them as our own. Considering the military judge's application of the law de novo, we concur in her conclusion that the

search authorization in this case was supported by probable cause. *See Id.* at 246 (citing *United States v. Ayala*, 43 M.J. 296, 298 (C.A.A.F. 1995)). The evidence presented to the magistrate was sufficient to permit a person of reasonable caution to conclude that contraband would be found on the appellant's computer. *See United States v. Bethea*, 61 M.J. 184, 187 (C.A.A.F. 2005). Although the magistrate clearly expressed concern about the evidence he was initially presented, he appropriately pressed for further information to resolve those concerns. We generally resolve such close calls in favor of the magistrate's decision. *Monroe*, 52 M.J. at 331. Moreover, we agree with the military judge's determination that the law enforcement agents acted in good faith when obtaining the search authorization, and reasonably relied on it when conducting their search. *See generally United States v. Lopez*, 35 M.J. 35, 40 (C.M.A. 1992).

The 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, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court