UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Technical Sergeant CLIFFORD MASON
United States Air Force

ACM 34677 (f rev)

30 September 2005

Sentence adjudged 18 March 2005 by GCM convened at Lackland Air Force Base, Texas. Military Judge: James L. Flanary.

Approved sentence: Bad-conduct discharge and reduction to E-4.

Appellate Counsel for Appellant: Colonel Carlos L. McDade, Lieutenant Colonel Mark R. Strickland, Major Sandra K. Whittington, and Captain Anthony D. Ortiz.

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

Before

STONE, ORR, and JOHNSON
Appellate Military Judges

UPON FURTHER REVIEW

PER CURIAM:

This case is before our Court for the third time. The appellant currently stands convicted of two specifications of violating a lawful general regulation, in violation of Article 92, UCMJ, 10 U.S.C. § 892. After entering our second opinion in this case, our superior court reversed and ordered a sentence rehearing. *United States v. Mason*, 60 M.J. 404 (C.A.A.F. 2004) (mem.). A sentence rehearing was duly held on 18 March 2005 at Lackland Air Force Base, Texas. At this hearing, a panel of officer members sentenced the appellant to a bad-conduct discharge and reduction to the grade of E-4. The convening authority approved the sentence on 27 April 2005. On 17 August 2005, the appellant raised one issue for our consideration: Whether the sentencing authority imposed an inappropriately severe punishment when it sentenced the appellant to a bad-

conduct discharge. He argues that the sentence was inappropriately severe based upon the "nature of his crimes," which he characterizes as having consensual sex with one of his trainees and having "conversations of a sexual nature with another trainee." He compares his case to others who received lesser punishment for similar crimes. He also highlights his nearly 18-years of excellent service, the fact he served substantial confinement based upon his previous sentence, and his loss of potential retirement benefits.

Article 66(c), UCMJ, 10 U.S.C. § 866(c), requires this Court to approve only that sentence, or such part or amount of the sentence, as it finds correct in law and fact and determines should be approved. The determination of sentence appropriateness "involves the judicial function of assuring that justice is done and that the accused gets the punishment he deserves." *United States v. Healy*, 26 M.J. 394, 395 (C.M.A. 1988). In order to determine the appropriateness of the sentence, this Court must consider 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. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982); *United States v. Alis*, 47 M.J. 817, 828 (A.F. Ct. Crim. App. 1998). Although we are mindful of the arguments the appellant makes in support of this assignment of error, we also have considered the significant impact his conduct had on the military mission and the complaining witnesses. In view of this particular appellant, his record of service, his character, and the nature and seriousness of his offenses, we do not find this sentence inappropriately severe.

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.

OFFICIAL

ANGELA M. BRICE
Clerk of Court