

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Senior Airman SHANNON L. MCGOWAN
United States Air Force**

ACM 35859

28 September 2005

Sentence adjudged 14 November 2003 by GCM convened at Nellis Air Force Base, Nevada. Military Judge: Anne L. Burman (sitting alone).

Approved sentence: Dishonorable discharge, confinement for 60 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Carlos L. McDade, Major Sandra K. Whittington, and Major L. Martin Powell.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Major Kevin P. Stiens.

Before

**BROWN, MOODY, and FINCHER
Appellate Military Judges**

PER CURIAM:

We have examined the record of trial, the assignment of error, and the government's reply. We find the appellant's sentence appropriate and affirm.

Article 66(c), UCMJ, 10 U.S.C. § 866(c), requires us to affirm only as much of the sentence as we find should be approved. In determining sentence appropriateness, we must ensure that justice is done and the appellant receives the punishment she deserves. We do not exercise clemency. *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988). Instead, we discharge this responsibility by giving individualized consideration to the appellant, to include the nature and seriousness of the offenses and the character of her service. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982).

The appellant contends that sentencing her to confinement for five years is too harsh. She reasons that each child neglect specification only carries a maximum of confinement for one year. The false official statement and desertion specifications are really just an outgrowth of the child neglect, and adding three years for these offenses is an overreaction. We disagree.

The evidence shows that the appellant grossly neglected her seven-month-old twin sons. Day after day, she left them home alone on a urine-soaked mattress, dehydrated and lying in their own filth. Night after night, they grew weaker while she gambled and cavorted on the Las Vegas strip. When asked about the boys' whereabouts, she lied to her acting first sergeant in an attempt to prevent their rescue. When faced with the enormity of her crimes, she deserted her unit and fled to California until law enforcement personnel apprehended her. We have considered the evidence of her depression and mental state. None of it excuses her behavior. The military judge sentenced the appellant to a dishonorable discharge, confinement for 66 months, forfeiture of all pay and allowances, and reduction to E-1. The convening authority reduced the confinement to 60 months in accordance with the terms of a pretrial agreement and did not approve the forfeiture of all pay and allowances for the benefit of her sons. Under the facts and circumstances of this case, the approved sentence was appropriate.

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