

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman ELVEN B. MCKAY
United States Air Force

ACM 37637

06 July 2011

Sentence adjudged 22 January 2010 by GCM convened at Seymour-Johnson Air Force Base, North Carolina. Military Judge: Le T. Zimmerman (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 6 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for the Appellant: Colonel Eric N. Eklund; Colonel Terri L. Carver; Lieutenant Colonel Gail E. Crawford; Major Darrin K. Johns; Major Reggie D. Yager.

Appellate Counsel for the United States: Colonel Don M. Christensen; Major Naomi N. Porterfield; and Gerald R. Bruce, Esquire.

Before

BRAND, ORR, and WEISS
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

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, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000).

* The Court notes that the Court-Martial Order (CMO), dated 29 March 2010, and the Result of Trial (AF 1359), incorrectly list the offense as willful dereliction of duty. Both documents also incorrectly indicate that the appellant was found guilty of this specification by exceptions and substitutions. The charge, however, was amended pre-arraignment to negligent dereliction. (R. 4, 15.1). Appellant then pled guilty as charged (R. 16) and was found guilty as charged (R. 53). The Court orders the promulgation of a corrected CMO and corrected Result of Trial.

Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL



A handwritten signature in blue ink, appearing to read "S. Lucas", is written over a horizontal line.

STEVEN LUCAS
Clerk of the Court