UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Staff Sergeant MICHAEL W. MCMURRY
United States Air Force

ACM 35885

27 January 2006

Sentence adjudged 12 November 2003 by GCM convened at Langley Air Force Base, Virginia. Military Judge: Lance B. Sigmon (sitting alone).

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, Major Andrew S. Williams, Major Sandra K. Whittington, and Captain David P. Bennett.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Gary F. Spencer, Major John C. Johnson, and Major Tracey L. Printer.

Before

STONE, SMITH, and MATHEWS
Appellate Military Judges

PER CURIAM:

The appellant was convicted, in accordance with his pleas, of using marijuana, cocaine, ecstasy, and psilocin (mushrooms), in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. The convening authority approved the sentence adjudged by the military judge which consisted of a bad-conduct discharge, confinement for 7 months, forfeiture of all pay and allowances, and reduction to E-1.

The appellant raises three issues, all related to his cocaine use. The appellant smoked a marijuana cigar (a "blunt") that, unbeknownst to him at the time, was laced with cocaine. Because the appellant explained during the plea inquiry that he did not know the blunt contained cocaine, he now contends that his plea to that specification was

improvident.[1] He also contends his marijuana and cocaine use, alleged in separate specifications, are multiplicious for findings and constitute an unreasonable multiplication of charges for purposes of sentencing.

The appellant's brief was filed about three weeks before our superior court decided *United States v. Dillon*, 61 M.J. 221 (C.A.A.F. 2005). In light of *Dillon*, we find the appellant's plea to cocaine use was provident, and we find the separate marijuana and cocaine specifications were not multiplicious for findings purposes. *See Id*. at 223-24. In light of *Dillon* and *United States v. Quiroz*, 55 M.J. 334, 337 (C.A.A.F. 2001), we find no unreasonable multiplication of charges. *See Dillon*, 61 M.J. at 224.

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). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

LOUIS T. FUSS, TSgt, USAF
Chief Court Administrator

[1] *See United States v. Care*, 40 C.M.R. 247 (C.M.A. 1969).