

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

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UNITED STATES

v.

Airman First Class MICHAEL M. MISTRETТА  
United States Air Force

ACM S31592

16 March 2010

Sentence adjudged 20 September 2008 by SPCM convened at Misawa Air Base, Japan. Military Judge: Mark Allred.

Approved sentence: Bad-conduct discharge, restriction to the limits of Misawa Air Base, Japan for 60 days, and reduction to E-1.

Appellate Counsel for the Appellant: Major Shannon A. Bennett, Major Jennifer J. Raab, and Captain Andrew J. Unsicker.

Appellate Counsel for the United States: Colonel Douglas P. Cordova and Lieutenant Colonel Jeremy S. Weber.

Before

BRAND, HELGET, and GREGORY  
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

Although not raised as an issue, this Court notes a discrepancy between the amount of restriction announced by the members and contained in the Court-Martial Order. The sentence announced by the members included “to be restricted to the limits of Misawa Air Base for a period of 2 months.” The Sentencing Worksheet used by the members states the same. The staff judge advocate’s recommendation to the convening authority states the appellant was sentenced to “restriction to the limits of Misawa Air Base, Japan, for 60 days.” The convening authority approved the sentence as adjudged, and the amount of restriction listed in the Court-Martial Order is “60 days.” There is a distinct difference between two months and 60 days. Based upon this information, we

affirm only so much of the sentence as includes a bad-conduct discharge, restriction to the limits of Misawa Air Base, Japan for 60 days, and reduction to E-1.

The approved findings and the sentence, as modified, 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 the sentence, as modified, are

AFFIRMED.

OFFICIAL



  
CHRISTINA E. PARSONS, TSgt, USAF  
Deputy, Clerk of the Court

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\* The Court notes that the Court-Martial Order (CMO), dated 25 November 2008, incorrectly identifies the appellant as MICHEAL M. MISTRETTA. The appellant's first name is MICHAEL. The Court orders the promulgation of a corrected CMO.