

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Senior Airman KEVIN J. MITCHELL
United States Air Force

ACM S31338

20 August 2008

Sentence adjudged 11 June 2007 by SPCM convened at Hurlburt Field, Florida. Military Judge: Ronald A. Gregory (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 4 months, and reduction to E-1.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland and Captain Phillip T. Korman.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Major Matthew S. Ward, and Major Amy E. Hutchens.

Before

FRANCIS, HEIMANN, and THOMPSON
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

Consistent with the appellant's pleas, a military judge sitting as a special court-martial convicted him of one specification of willful dereliction of duty in violation of Article 92, UCMJ, 10 U.S.C. § 892, and one specification of larceny and one specification of wrongful appropriation in violation of Article 121, UCMJ, 10 U.S.C. § 921. A military judge sentenced him to a bad-conduct discharge, confinement for five months, and reduction to E-1. The convening authority approved a sentence of a bad-conduct discharge, confinement for four months, and reduction to E-1. The appellant

asserts that the portion of the sentence extending to a bad-conduct discharge is inappropriately severe.*

This Court reviews sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382 (C.A.A.F. 2005). We make such determinations in light of the character of the offender, the nature and seriousness of his offenses, and the entire record of trial. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982); *United States v. Rangel*, 64 M.J. 678, 686 (A.F. Ct. Crim. App. 2007).

The appellant's dereliction of duty and wrongful appropriation through misuse of his government-issued travel card for unauthorized and unofficial uses was extensive and covered a substantial time-period. The larceny was significant in that the appellant feigned a lost government travel card and then allowed his personal account to be credited for charges which were in fact made by the appellant. Furthermore, this larceny went undiscovered for well over one year due to his lies and theft. Considering those offenses and weighing the appellant's service record and other matters properly contained within the record, the approved sentence is fair, just and appropriate.

Conclusion

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



STEVEN LUCAS, YA-02, DAF
Clerk of the Court

* This issue is raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).