

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class TRAVIS J. MYERS
United States Air Force**

ACM S30229

26 March 2004

Sentence adjudged 24 September 2002 by SPCM convened at Pope Air Force Base, North Carolina. Military Judge: Mary M. Boone (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 6 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, and Captain Jennifer K. Martwick.

Appellate Counsel for the United States: Colonel LeEllen Coacher and Lieutenant Colonel Lance B. Sigmon.

Before

**STONE, JOHNSON-WRIGHT, and ZANOTTI
Appellate Military Judges**

PER CURIAM:

A special court-martial, consisting of a military judge, found the appellant guilty, in accordance with his plea, of larceny, in violation of Article 121, UCMJ, 10 U.S.C. § 921. Consistent with his plea, the appellant was found not guilty of the separate offense of unlawful breaking and entering with the intent to commit larceny. However, he was found guilty of the lesser included offense of housebreaking in violation of Article 130, UCMJ, 10 U.S.C. § 930. He was sentenced to a bad-conduct discharge, confinement for 6 months, and reduction to E-1. The convening authority approved the adjudged sentence.

Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), the appellant argues that his adjudged sentence is inappropriately severe and asks this Court to reassess his sentence. We disagree and affirm.

This Court “may affirm only such findings of guilty and the sentence or such part or amount of the sentence, as it finds correct in law and fact and determines, on the basis of the entire record, should be approved.” Article 66(c), UCMJ, 10 U.S.C. § 866(c). In order to determine the appropriateness of the sentence, this Court must consider the particular appellant, the nature and seriousness of the offense, the appellant’s record of service, and all matters contained in the record of trial. *United States v. Snelling*, 14 M.J. 267 (C.M.A. 1982). The consideration of a grant of clemency, or mercy, is a separate analysis, not part of the Court’s charter. *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988). Having considered all the circumstances of the appellant’s offenses, in light of his military record and the matters contained in the record of trial, we find the sentence to be appropriate. *Id.*

The approved findings and sentence are correct in law and fact, and no error prejudicial to the appellant’s substantial rights occurred. Article 66(c), UCMJ; *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

LAQUITTA J. SMITH
Documents Examiner