

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

First Lieutenant James A. Pedroza
United States Air Force

ACM 36896

11 February 2008

Sentence adjudged 26 July 2006 by GCM convened at Spangdahlem Air Base, Germany. Military Judge: Adam Oler.

Approved sentence: Dismissal and confinement for 4 months.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland, Captain Anthony D. Ortiz, and Frank J. Spinner (Civilian Counsel).

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Major Matthew S. Ward, and Major Sloan M. Pye.

Before

FRANCIS, SOYBEL, and BRAND
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

Consistent with his pleas, the appellant was convicted by general court-martial of one specification of wrongful use of cocaine, one specification of wrongful use of a Schedule I controlled substance (ecstasy) on divers (two) occasions, and one specification of wrongful use of a Schedule III controlled substance (ketamine), all in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. A panel of officer members sentenced the appellant to a dismissal and confinement for nine months. The convening authority, as a matter of clemency, approved only so much of the sentence as provided for a dismissal and confinement for four months. The appellant asserts the approved sentence to a dismissal, in conjunction with confinement, is inappropriately severe. We affirm.

This Court reviews sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382, 383-84 (C.A.A.F. 2005); *United States v. Christian*, 63 M.J. 714, 717 (A.F. Ct. Crim. App. 2006). 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. Bare*, 63 M.J. 707, 714 (A.F. Ct. Crim. App. 2006). We have a great deal of discretion in determining whether a particular sentence is appropriate, but are not authorized to engage in exercises of clemency. *United States v. Lacy*, 50 M.J. 286, 288 (C.A.A.F. 1999); *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988); *United States v. Dodge*, 59 M.J. 821, 829 (A.F. Ct. Crim. App. 2004).

The record indicates the appellant used illegal drugs on four separate occasions while a senior at the United States Air Force Academy, each time with other cadets. At the time of his court-martial, he had already graduated, was serving on active duty at his first duty location, and had compiled a commendable performance record.

Given the seriousness of the appellant's offenses, and considering his time in service, military record and all other evidence properly admitted at trial, we find nothing inappropriately severe in the approved punishment. The approved sentence is fair, just, and appropriate. *See Baier*, 60 M.J. at 384.

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, GS-11, DAF
Clerk of the Court