

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

First Lieutenant JERROD M. PETROVICH
United States Air Force

ACM 37022

25 June 2008

Sentence adjudged 11 April 2007 by GCM convened at Wright-Patterson Air Force Base, Ohio. Military Judge: Gary M. Jackson (sitting alone).

Approved sentence: Dismissal, forfeiture of all pay and allowances, a fine of \$1,038.00 (which if not paid, then confinement for 1 year), and a reprimand.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland, Major Shannon A. Bennett, Major Matthew C. Hoyer, and Captain Tiaundra Sorrell.

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

Before

FRANCIS, BRAND, and HEIMANN
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

In accordance with his pleas, the appellant was convicted of one specification of divers wrongful uses of Meperidine, one specification of wrongful use of marijuana, and one specification of divers larcenies of the Merperidine, in violation of Articles 112a and 121, UCMJ, 10 U.S.C. §§ 912a, 921. Contrary to his pleas, the appellant was convicted of one specification of wrongful possession of marijuana and one specification of fraternization, in violation of Articles 112a and 134, UCMJ, 10 U.S.C. §§ 912a, 934. The

approved sentence consists of a dismissal, a reprimand, total forfeitures, and a fine of \$1038 which if not paid, then one year of confinement.*

While the appellant has raised no issues on appeal, this Court notes an error in the sentence. Specifically, when an accused “is not serving confinement, the accused should not be deprived of more than two-thirds pay for any month” Rule for Courts-Martial 1107(d)(2), Discussion. Based upon this, the Court finds appropriate only so much of the sentence which includes a dismissal, a reprimand, a fine of \$1038 which if not paid then one year of confinement, and forfeitures of \$2624.00 pay per month for 12 months. The sentence is reassessed accordingly.

Conclusion

The findings and the sentence, as reassessed, 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 findings, and sentence, as reassessed, are

AFFIRMED.

OFFICIAL



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

* The fine was paid prior to the convening authority taking action in this case.