

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman Basic BRETT T. ROBERSON
United States Air Force**

ACM S30961

8 February 2007

Sentence adjudged 1 August 2005 by SPCM convened at Hurlburt Field, Florida. Military Judge: Glenn L. Spitzer (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 1 month, and forfeiture of \$823.00 pay per month for 1 month.

Appellate Counsel for Appellant: Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, and Major Anniece Barber.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, and Captain Daniel J. Breen.

Before

BROWN, BECHTOLD, and BRAND
Appellate Military Judges

PER CURIAM:

The appellant was convicted, in accordance with his pleas, of one specification of wrongful use of marijuana and one specification of wrongful possession of marijuana, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. His approved sentence consists of a bad-conduct discharge, confinement for 1 month, and forfeiture of \$823.00 for one month.

The appellant does not challenge the findings or sentence of his court-martial, and we find them correct in both law and fact. *See* Article 66(c), UCMJ, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Instead, the appellant asserts error in the Court-Martial Order (CMO). Specifically, the CMO states that the appellant

pled and was found guilty of use marijuana *on divers occasions* in Specification 1 of the Charge. (emphasis added). The appellant contends that the language “on divers occasions” is erroneous and must be corrected. We concur.

The standard of review for determining whether post-trial processing was properly completed is de novo. *United States v. Sheffield*, 60 M.J. 591, 593 (A.F. Ct. Crim. App. 2004) (citing *United States v. Kho*, 54 M.J. 63, 65 (C.A.A.F. 2000)). In the case sub judice, the record is clear. The appellant was not charged with use on divers occasions, he pled guilty to a single use, and the military judge, sitting alone, found him guilty of a single use. The CMO is incorrect and should be corrected. We also note that the CMO contained in the record of trial is either incompletely copied or is not in compliance with the requirements of Air Force Instruction 51-201, *Administration of Military Justice* (26 Nov 2003), since the language in the action is truncated and the “close” referenced in paragraph 10.1.8.6 is missing. Since the record is being returned for a new CMO, we find no prejudice to this administrative inadvertence or noncompliance.

Based on the foregoing, we order the promulgation of a corrected Court-Martial Order. The findings and sentence are

AFFIRMED.

OFFICIAL

LAQUITTA J. SMITH
Documents Examiner