

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class JOSHUA RODRIGUEZ
United States Air Force**

ACM 37454 (f rev)

24 May 2010

Sentence adjudged 06 April 2009 by GCM convened at Hurlburt Field, Florida. Military Judge: W. Thomas Cumbie (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 60 days, and reduction to E-1.

Appellate Counsel for the Appellant: Colonel Raymond J. Hardy, Jr., Major Shannon A. Bennett, Major Michael A. Burnat, and Captain Phillip T. Korman.

Appellate Counsel for the United States: Colonel Douglas P. Cordova, Lieutenant Colonel Jeremy S. Weber, Captain Michael T. Rakowski, and Gerald R. Bruce, Esquire.

Before

BRAND, HELGET, and GREGORY
Appellate Military Judges

UPON FURTHER REVIEW

This opinion is subject to editorial correction before final release.

PER CURIAM:

In accordance with his pleas, the appellant was found guilty of one charge and specification of wrongfully possessing on divers occasions one or more visual depictions of what appears to be a minor engaging in sexually explicit conduct, in violation of Article 134, UCMJ, 10 U.S.C. § 934. The approved sentence consists of a bad-conduct discharge, confinement for 60 days, and reduction to E-1.

This case is before our Court for the second time. In *United States v. Rodriguez*, ACM 37454 (A.F. Ct. Crim. App. 19 Jan 2010) (unpub. op.), we affirmed the findings. However, because the Action erroneously executed the bad-conduct discharge, we returned the record to the Judge Advocate General of the Air Force for remand to the convening authority to withdraw the erroneous Action, substitute a corrected Action, and promulgate a corrected court-martial order.

On 29 January 2010, the Action and court-martial order were accomplished in accordance with this Court's directions.

Conclusion

The approved findings were previously affirmed by this Court. The approved sentence is 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 sentence is

AFFIRMED.

OFFICIAL



A handwritten signature in blue ink, appearing to read "S. Lucas", is written over the seal.

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