

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman First Class GREGORY A. SEVIER
United States Air Force

ACM S31225

30 November 2007

Sentence adjudged 26 September 2006 by SPCM convened at Laughlin Air Force Base, Texas. Military Judge: John E. Hartsell.

Approved sentence: Bad-conduct discharge and confinement for 30 days.

Appellate Counsel for the Appellant: Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, and Captain Christopher L. Ferretti.

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

Before

FRANCIS, SOYBEL, and BRAND
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

We have examined the record of trial, the assignments of error raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), and the government's reply thereto. The appellant asserts; 1) that his sentence is inappropriately severe; and 2) that the military judge erred when he prevented the appellant from giving his unsworn statement from the witness stand. We find to the contrary.

This Court reviews sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382, 383-84 (C.A.A.F. 2005). 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), *aff'd*, 65 M.J. 35 (C.A.A.F. 2007).

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).

The maximum possible punishment in this case was a bad-conduct discharge, confinement for 12 months, 2/3 forfeiture of pay for 12 months, and reduction to E-1. The appellant's adjudged and approved sentence was confinement for 30 days and a bad-conduct discharge. Having reviewed the nature of the appellant's offense (wrongful use of cocaine), and considering the appellant's time in service, military record, and all other matters in the record of trial, including the trial counsel's argument, we hold that the approved sentence is not inappropriately severe. *See Healy*, 26 M.J. at 395.

Regarding the argument that the military judge erred when he prevented the appellant from giving his unsworn statement from the witness stand, that issue is well settled and without merit. *United States v. Welch*, 1 M.J. 1201 (A.F.C.M.R. 1976).

Conclusion

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