

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

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UNITED STATES

v.

**Airman Basic ANTHONY B. SKERVIN**  
**United States Air Force**

**ACM S31302**

**31 March 2008**

Sentence adjudged 13 March 2007 by SPCM convened at RAF Lakenheath, United Kingdom. Military Judge: Gordon R. Hammock (sitting alone).

Approved sentence: Bad-conduct discharge and confinement for 4 months.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland and Captain Phillip T. Korman.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Lieutenant Colonel Christopher C. Vannatta, 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:

In accordance with his pleas, the appellant was convicted of one specification of wrongful use of marijuana<sup>1</sup> and one specification of wrongful use of ecstasy in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. The approved sentence consists of a bad-conduct discharge and confinement for 4 months. The issue on appeal is whether the portion of the appellant's sentence that includes a bad-conduct discharge is inappropriately severe.<sup>2</sup>

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<sup>1</sup> Although the appellant pled guilty, the military judge found him guilty by exceptions and substitutions, shortening the charged timeframe.

<sup>2</sup> Raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982)

### *Background*

The appellant arrived at Royal Air Force Lakenheath, United Kingdom, in April 2006. He began smoking marijuana with two other airmen in their dormitory rooms in May 2006. He used marijuana 15-20 times between May and September 2006. In July 2006, they started using ecstasy and ingested ecstasy 3-5 times until they were called in and questioned by the Air Force Office of Special Investigations in September 2006.

In September 2006, the appellant received nonjudicial punishment for failing to go and making a false official statement. The suspended punishment from the nonjudicial punishment was vacated in February 2007 as a result of the appellant's incapacity for work due to alcohol consumption.

### *Discussion*

We "may affirm only such findings of guilty and the sentence or such part or amount of the sentence, as [we find] correct in law and fact and determine[], on the basis of the entire record, should be approved." Article 66(c), UCMJ, 10 U.S.C. § 866(c). We assess sentence appropriateness by considering the particular appellant, the nature and seriousness of the offense, the appellant's record of service, and all matters contained in the record of trial. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982).

After a careful review of the record of trial, to include the appellant's post-trial submissions, we conclude the appellant's sentence to a bad-conduct discharge is not inappropriately severe.

The findings and the sentence are correct in law and fact, and no error prejudicial to the substantial rights of the appellant occurred. Article 66(c), UCMJ; *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the findings, and sentence, are

AFFIRMED.

OFFICIAL



STEVEN LUCAS, GS-11, DAF  
Clerk of the Court