

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Senior Airman DERRICK W. SMALL
United States Air Force

ACM 37061

19 August 2008

Sentence adjudged 05 June 2007 by GCM convened at Seymour Johnson Air Force Base, North Carolina. Military Judge: Donald A. Plude (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 6 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for the Appellant: Major Shannon A. Bennett and Captain Tiffany M. Wagner.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Lieutenant Colonel John P. Taitt, and Major Matthew S. Ward.

Before

FRANCIS, HEIMANN, and THOMPSON
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

Consistent with his pleas, the appellant was convicted of one specification each of divers wrongful distribution of marijuana; wrongful distribution of 3, 4 methylenedioxymethamphetamine (Ecstasy); divers wrongful use of marijuana; and wrongful use of cocaine, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. A military judge sentenced him to a bad-conduct discharge, confinement for nine months, forfeiture of all pay and allowances, and reduction to E-1. The convening authority reduced the period of confinement to six months, but otherwise approved the sentence as

adjudged. The appellant asserts that the portion of his sentence extending to a bad-conduct discharge is inappropriately severe.*

This Court reviews sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382 (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. Rangel*, 64 M.J. 678, 686 (A.F. Ct. Crim. App. 2007).

The appellant's drug offenses are many, varied, and serious. Considering those offenses, and weighing the appellant's service record and other matters properly contained within the record, the approved sentence is fair, just, and appropriate.

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.

Senior Judge HEIMANN did not participate.

OFFICIAL



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

* This issue is raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).