

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Staff Sergeant CHARISSE L. SMITH
United States Air Force

ACM 36636

12 September 2007

Sentence adjudged 7 December 2005 by GCM convened at Davis-Monthan Air Force Base, Arizona. Military Judge: William A. Kurlander.

Approved sentence: Dishonorable discharge, confinement for 1 year and 8 months, forfeiture of all pay and allowances, \$4,000.00 fine, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, and Captain John S. Fredland.

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

Before

SCHOLZ, JACOBSON, and THOMPSON
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

In accordance with her pleas, the appellant was convicted of one specification of conspiracy and one specification of wrongful possession of cocaine with intent to distribute, in violation of Articles 81 and 112a, UCMJ, 10 U.S.C. §§ 881, 912a. A general court-martial comprised of officer members sentenced the appellant to a dishonorable discharge, confinement for 1 year and 8 months, forfeiture of all pay and allowances, a fine of \$4000, and reduction to the lowest enlisted grade. The convening authority approved the adjudged sentence. On appeal, the appellant asserts her sentence is inappropriately severe. She asks us to compare her sentence to those received by other

Airmen convicted of the same offenses. We find the assignment of error to be without merit and affirm.

This Court has the authority to review sentences pursuant to Article 66(c), UCMJ, 10 U.S.C. § 866(c), and to reduce or modify sentences we find inappropriately severe. Generally, we make this determination in light of the character of the offender and the seriousness of her offense. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982). We may also take into account disparities between sentences adjudged for similar offenses. *United States v. Wacha*, 55 M.J. 266, 267 (C.A.A.F. 2001). Our duty to assess the appropriateness of a sentence is “highly discretionary,” but does not authorize us to engage in an exercise of clemency. *United States v. Lacy*, 50 M.J. 286, 287 (C.A.A.F. 1999); *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988). We have given individualized consideration to this particular appellant and have carefully reviewed the facts and circumstances of this case, including the sentences of others convicted of the same offenses.

The appellant’s sentence is within legal limits and no error prejudicial to the appellant’s substantial rights occurred during the findings or sentencing proceedings. After carefully examining the submissions of counsel, taking into account all the facts and circumstances surrounding the crimes of which the appellant was found guilty, we do not find the appellant’s sentence inappropriately severe or highly disparate when compared to others. *Snelling*, 14 M.J. at 268; *Lacy*, 50 M.J. at 288.

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; *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

The seal of the U.S. Air Force Court of Criminal Appeals is circular, featuring an eagle with wings spread, perched on a globe. The text "U.S. AIR FORCE" is at the top and "COURT OF CRIMINAL APPEALS" is at the bottom. A signature in blue ink is written across the seal.
STEVEN LUCAS, GS-11, DAF
Clerk of Court