

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

**Airman First Class GREGORY M. SOTO
United States Air Force**

ACM S31283

30 November 2007

Sentence adjudged 8 March 2007 by SPCM convened at Sheppard Air Force Base, Texas. Military Judge: John E. Hartsell.

Approved sentence: Bad-conduct discharge, confinement for 60 days, forfeiture of \$867.00 pay per month for 2 months, and reduction to E-1.

Appellate Counsel for the Appellant: Colonel Nikki A. Hall, Lieutenant Colonel Mark R. Strickland, Major David P. Bennett, and Captain Vicki A. Belleau.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Major Matthew S. Ward, Major Steven R. Kaufman.

Before

JACOBSON, PETROW, and ZANOTTI
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

A special court-martial, consisting of officer members, found the appellant guilty in accordance with his plea of one specification of wrongful use of cocaine, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. He was sentenced to a bad-conduct discharge, confinement for 60 days, forfeiture of pay of \$867.00 per month for two months, and reduction to E-1. The convening authority approved the findings and sentence.

Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), the appellant argues that his adjudged sentence is inappropriately severe and asks this Court to reassess his sentence.¹ We disagree and affirm.

This Court “may affirm only such findings of guilty and the sentence or such part or amount of the sentence, as it finds correct in law and fact and determines, on the basis of the entire record, should be approved.” Article 66(c), UCMJ, 10 U.S.C. § 866(c). In order to determine the appropriateness of the sentence, this Court must consider 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). The consideration of a grant of clemency, or mercy, is a separate analysis, not part of the Court’s charter. *United States v. Healy*, 26 M.J. 394, 395-96 (C.M.A. 1988). Having considered all the circumstances of the appellant’s offenses, in light of his military record and the matters contained in the record of trial, we find the sentence to be appropriate. *Id.*

Conclusion

The approved findings and sentence are correct in law and fact, and no error prejudicial to the appellant’s substantial rights 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



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

¹ The appellant invites us to consider the sentence of another airman convicted of wrongful use of cocaine arising from the same circumstances in further support of his argument that his sentence is inappropriately severe. The appellant has failed to establish that sentence comparison is necessary to execute our Article 66(c), UCMJ, 10 U.S.C. § 866(c), responsibilities. *United States v. Lacy*, 50 M.J. 286, 288 (C.A.A.F. 1999).