

**UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

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**UNITED STATES**

**v.**

**Airman First Class RICHARD S. SOVINE  
United States Air Force**

**ACM S30135**

**30 April 2004**

Sentence adjudged 6 May 2002 by SPCM convened at Misawa Air Base, Japan. Military Judge: Steven B. Thompson (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 3 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, Major Karen L. Hecker, and Captain James M. Winner.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Colonel Michael J. Cianci Jr., and Lieutenant Colonel Lance B. Sigmon.

Before

BRESLIN, ORR, and GENT  
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignments of error, and the government's reply thereto. The appellant first asserts that his plea to the charge of carnal knowledge was improvident. We find that the military judge properly instructed the appellant concerning a potential mistake of fact defense. Article 45(a), UCMJ, 10 U.S.C. § 845(a); Rule for Courts-Martial (R.C.M.) 910(e). We further find that the appellant admitted facts that negated the defense and objectively supported the plea. *See United States v. Biscoe*, 47 M.J. 398, 402 (C.A.A.F. 1998) (possible defense to charges must be explained to an accused by judge before accepting guilty plea); R.C.M. 910(e). Therefore, we conclude that there is no "substantial basis" in law and fact for questioning the guilty plea." *United States v. Prater*, 32 M.J. 433, 436 (C.M.A. 1991). We hold that the military judge did not abuse his discretion by accepting the appellant's guilty plea. *United States v. Eberle*, 44 M.J. 374, 375 (C.A.A.F. 1996).

The appellant next alleges, pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), that his sentence is inappropriately severe because it includes a bad-conduct discharge, confinement for 3 months, and a reduction to E-1. We have determined the appropriateness of the approved sentence by an individualized consideration of the nature and seriousness of the appellant's offenses and his character. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982). Having done so, we hold that his sentence is not inappropriately severe.

The 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

FELECIA M. BUTLER, TSgt, USAF  
Chief Court Administrator