

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

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UNITED STATES

v.

Staff Sergeant **JOHN P. SUAREZ**  
United States Air Force

**ACM S31055**

**25 July 2007**

Sentence adjudged 23 January 2006 by SPCM convened at Schriever Air Force Base, Colorado. Military Judge: William M. Burd (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 20 days, 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, Major John P. Taitt, and Captain Jamie L. Mendelson.

Before

FRANCIS, SOYBEL, and BRAND  
Appellate Military Judges

PER CURIAM:

In accordance with his pleas, the appellant was convicted of two specifications of willful dereliction of duty, in violation of Article 92, UCMJ, 10 U.S.C. §892. The approved sentence consists of a bad-conduct discharge, confinement for 20 days, and reduction to E-1.

The appellant asserts that the portion of his sentence involving a bad-conduct discharge is inappropriately severe. We “may affirm only such findings of guilty and the sentence or such part or amount of the sentences, 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).

The appellant, while married, engaged in consensual sexual intercourse with a direct subordinate Airman First Class (A1C) MP, also married, contemporaneously as another member of the same squadron engaged in oral sex with A1C MP. Sometime, thereafter, the appellant made a sexually inappropriate remark to A1C MP. After a careful review of the record of trial, to include the appellant's post-trial submissions, we conclude the appellant's sentence, including the bad-conduct discharge, is not inappropriately severe.

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 findings and sentence are

AFFIRMED.

Senior Judge FRANCIS did not participate.

OFFICIAL

MARTHA E. COBLE-BEACH, TSgt, USAF  
Court Administrator

