

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Senior Airman PATRICK T. SULLIVAN
United States Air Force

ACM 36704

19 October 2007

Sentence adjudged 9 February 2006 by GCM convened at Francis E. Warren Air Force Base, Wyoming. Military Judge: Barbara Shestko (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 8 months, and reduction to E-1.

Appellate Counsel for the 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 Captain Brendon K. Tukey.

Before

WISE, BRAND, and HEIMANN
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

Contrary to his pleas, the appellant was convicted of one specification of attempted possession of sexually explicit images of minors on divers occasions and seven specifications of possession of sexually explicit images of minors, in violation of Articles 80 and 134, UCMJ, 10 U.S.C. §§ 880, 934. He was found not guilty of ten specifications of possession of sexually explicit images of minors. In addition, the military judge dismissed, with prejudice, three specifications of possession of sexually explicit images of minors. The military judge sentenced the appellant to a bad-conduct discharge, confinement for 8 months, and reduction to the grade of E-1. The convening authority approved the adjudged sentence. On appeal, the appellant asserts that the convictions to

the seven specifications under Charge II are not factually sufficient. We find the assignment of error to be without merit and affirm.

Legal and Factual Sufficiency

We review each court-martial record de novo to consider its legal and factual sufficiency. Article 66(c), UCMJ, 10 U.S.C. § 866(c); *United States v. Washington*, 57 M.J. 394, 399 (C.A.A.F. 2002). With regard to legal sufficiency, we ask whether, considering the evidence in the light most favorable to the prosecution, a reasonable fact finder could have found all of the elements of the offense proven beyond a reasonable doubt. *United States v. Turner*, 25 M.J. 324 (C.M.A. 1987). In this case, the appellant concedes that the evidence is legally sufficient. For factual sufficiency, we weigh the evidence in the record of trial and, after making allowances for not having personally observed the witnesses, determine whether we ourselves are convinced beyond a reasonable doubt of the appellant's guilt. *United States v. Sills*, 56 M.J. 239, 240-41 (C.A.A.F. 2002); *Turner*, 25 M.J. at 325.

We have carefully reviewed the record of trial and conclude there is no question that the government presented legally sufficient evidence to support the findings in this case. Furthermore, after reviewing the record of trial, we are also convinced beyond a reasonable doubt that the appellant is guilty of wrongful possession of sexually explicit images of minors in violation of Article 134, UCMJ.

Conclusion

The findings and the 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.

OFFICIAL



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