

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Senior Airman **ROBERT A.D. WEIR, JR.**
United States Air Force

ACM S31423

16 October 2008

Sentence adjudged 23 October 2007 by SPCM convened at Moody Air Force Base, Georgia. Military Judge: Christopher A. Santoro (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 70 days, and reduction to E-3.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland and Captain Griffin S. Dunham.

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

Before

FRANCIS, HEIMANN, and THOMPSON
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

Consistent with his pleas, the appellant was convicted of one specification of divers uses of cocaine over a six month period, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. A military judge sentenced the appellant to a bad-conduct discharge, confinement for 70 days, and reduction to E-3. The convening authority approved the findings and sentence. A pretrial agreement did not impact the convening authority's action on the sentence.

On appeal the appellant contends the military judge abused his discretion when he insisted the appellant provide a specific number of cocaine uses to support his plea to

divers uses of cocaine. He argues this information prejudiced the appellant during sentencing and that the sentence should therefore be set aside.

A military judge has an obligation to establish that a factual basis for a guilty plea exists. Rule for Courts-Martial 910(e). A military judge is given substantial deference in deciding which facts to elicit in order to establish a factual basis for a guilty plea, and his decision to accept a guilty plea is reviewed for an abuse of discretion. *United States v. Inabinette*, 66 M.J. 320, 322 (C.A.A.F. 2008). Finding no abuse of discretion, we affirm.

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, 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



STEVEN LUCAS, YA-02, DAF
Clerk of the Court