

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

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**UNITED STATES**

**v.**

**Airman First Class DUSTIN M. WILSON  
United States Air Force**

**ACM 35461**

**11 January 2005**

Sentence adjudged 4 November 2002 by GCM convened at Buckley Air Force Base, Colorado. Military Judge: Patrick M. Rosenow (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 18 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for Appellant: Major Kyle R. Jacobson and Major Antony B. Kolenc.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Robert V. Combs, and Major John C. Johnson.

Before

**PRATT, ORR, and MOODY**  
Appellate Military Judges

**PER CURIAM:**

We have examined the record of trial, the assignment of errors, and the government's reply thereto. The appellant pled guilty to, among other things, divers use of marijuana, advising the military judge during the providence inquiry of four such instances during the times alleged. We find that the government's proof of a fifth instance of marijuana use was not inconsistent with the terms of the pretrial agreement. We also find that such proof was not inconsistent with the stipulation of fact. *See United States v. Terlep*, 57 M.J. 344, 348 (C.A.A.F. 2002). We conclude that the government did not violate the pretrial agreement, therefore, and that there is no substantial basis to question the appellant's plea of guilty. *See United States v. Milton*, 46 M.J. 317, 318 (C.A.A.F. 1997); *United States v. Eberle*, 44 M.J. 374, 375 (C.A.A.F. 1996).

As regards the remaining assignment of error, we have considered the evidence in the light most favorable to the prosecution and conclude that a reasonable factfinder could have found all essential elements of the offenses of use of ecstasy and introduction of ecstasy beyond a reasonable doubt. *United States v. Turner*, 25 M.J. 324, 325 (C.M.A. 1987); *United States v. Walters*, 58 M.J. 391, 395 (C.A.A.F. 2003). Furthermore, after weighing the evidence in the record of trial and making allowances for not having personally observed the witnesses, we are convinced of the appellant's guilt beyond a reasonable doubt. *Id.*

The approved findings and sentence are correct in law and fact, and no error prejudicial to the substantial rights of the appellant was committed. Article 66(c), UCMJ, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). On the basis of the entire record, the approved findings and sentence are

AFFIRMED.

OFFICIAL

LAQUITTA J. SMITH  
Documents Examiner