

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Staff Sergeant AARON F. WILSON
United States Air Force

ACM S31348

11 August 2008

Sentence adjudged 02 March 2007 by SPCM convened at Kunsan Air Base, Republic of Korea. Military Judge: Eric L. Dillow (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 4 months, and reduction to E-1.

Appellate Counsel for the Appellant: Major Shannon A. Bennett and Captain Tiffany M. Wagner.

Appellate Counsel for the United States: Colonel Gerald R. Bruce, Major Donna S. Rueppell, and Major Amy E. Hutchens.

Before

FRANCIS, HEIMANN, and THOMPSON
Appellate Military Judges

This opinion is subject to editorial correction before final release.

PER CURIAM:

Consistent with the appellant's pleas, a military judge sitting as a special court-martial convicted him of three specifications of willful dereliction of duty, in violation of Article 92, UCMJ, 10 U.S.C. § 892. The adjudged and approved sentence consists of a bad-conduct discharge, confinement for four months, and reduction to E-1. The appellant asserts that his sentence is inappropriately severe. We find to the contrary. However, we

note that the approved sentence exceeds the period of confinement permitted by the appellant's pre-trial agreement (PTA).¹ We modify the sentence accordingly and affirm.

Background

The appellant was an F-16 engine mechanic assigned to the famed Wolf Pack,² Kunsan Air Base, Korea. On 26 June 2006, he was serving as the crew chief of a three-man team responsible for Hush House³ testing of an F-16 engine. In violation of Foreign Object Damage prohibitions and prohibitions against filming, the appellant took a video camera into the Hush House. Members of his crew used the camera to film themselves throwing a small frog in front of the F-16 engine, where it was sucked into the intake during the engine run. The appellant thereafter failed to document and report that a foreign object had been ingested into the engine and failed to perform the detailed inspection necessary to ensure that the engine had not been damaged. The violations came to light after another Air Force member saw a copy of the video taken by the appellant's crew posted on the Internet and reported it the Air Force Office of Special Investigations.

Faced with evidence that maintenance personnel under his command had intentionally caused a foreign object to be ingested into the engine of a fighter aircraft, the wing commander grounded the entire fleet of 41 aircraft until all could be inspected for potential damage. To minimize operational downtime, all wing maintenance personnel and all wing pilots were called in, working extended hours to complete the required inspections in two days.

Pre-Trial Agreement Violation

The appellant pled guilty pursuant to a PTA that limited confinement to three months if a bad-conduct discharge was also adjudged. Contrary to the terms of that PTA, the convening authority approved the sentence adjudged, which included four months confinement. We correct the error in our decretal paragraph.

Sentence Appropriateness

The appellant asserts that a sentence consisting of a bad-conduct discharge, confinement for three months and reduction to E-1 is inappropriately severe in light of

¹ The appellant's brief does not directly address the convening authority's violation of the PTA restrictions, but asserts that a sentence of a bad-conduct discharge, *three* months confinement and reduction to E-1 (*i.e.*, that permitted by the PTA), is too severe.

² 8th Fighter Wing.

³ A Hush House is an interior testing facility designed to contain engine noise during tests which require engine runs at greater than 80% power.

one charge and three specifications of dereliction of duty and his exemplary military record.

This Court reviews sentence appropriateness de novo. *United States v. Baier*, 60 M.J. 382 (C.A.A.F. 2005). We make such determinations in light of the character of the offender, the nature and seriousness of his offenses, and the entire record of trial. *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982); *United States v. Rangel*, 64 M.J. 678, 686 (A.F. Ct. Crim. App. 2007).

The appellant correctly points out that the frog ingested into the engine was small, soft, and ultimately caused no damage. Nonetheless, the offenses of which he stands convicted are serious. The record indicates that proper Foreign Object Damage control is critical to the safety of Air Force fighter aircraft and the pilots who fly them. The appellant, a mechanic charged with responsibility for properly maintaining those aircraft, intentionally caused a foreign object to be sucked into an engine, then intentionally failed to conduct the inspections required to ensure that engine had not been damaged. Ultimately, his actions caused an entire fleet of 41 aircraft to be grounded for two days, and forced hundreds of personnel to work extra hours to ensure the aircraft were safe. Considering those offenses, and weighing the appellant's service record and other matters properly contained within the record, the approved sentence, as modified below, is fair, just, and appropriate.

Defective Court-Martial Order

The court-martial promulgating order does not accurately reflect all of the charges and specifications on which the appellant was arraigned, but lists only those of which he was convicted. The government is directed to issue a corrected copy.

Conclusion

The approved findings 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). However, we affirm only so much of the sentence as includes a bad-conduct discharge, confinement for three months, and reduction to E-1.

The approved findings and sentence, as modified, are

AFFIRMED.

Senior Judge HEIMANN did not participate.

OFFICIAL



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