

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

No. ACM S32532 (f rev)

UNITED STATES
Appellee

v.

Joshua D. STAMPS
Staff Sergeant (E-5), U.S. Air Force, *Appellant*

Appeal from the United States Air Force Trial Judiciary
Upon Further Review

Decided 15 August 2019

Military Judge: Jennifer J. Raab.

Approved sentence: Bad-conduct discharge, confinement for 14 days, restriction to the limits of Keesler Air Force Base for 14 days, forfeiture of \$800.00 pay per month for six months, and reduction to E-1. Sentence adjudged 8 May 2018 by SpCM convened at Keesler Air Force Base, Mississippi.

For Appellant: Major Rodrigo M. Caruço, USAF.

For Appellee: Mary Ellen Payne, Esquire.

Before MINK, POSCH, and KEY, *Appellate Military Judges.*

This is an unpublished opinion and, as such, does not serve as precedent under AFCCA Rule of Practice and Procedure 30.4.

PER CURIAM:

In accordance with Appellant's pleas pursuant to a pretrial agreement, a special court-martial composed of a military judge found Appellant guilty of one specification of wrongful use of heroin on divers occasions and one specification of wrongful use of hydrocodone in violation

of Article 112a, Uniform Code of Military Justice, 10 U.S.C. § 912a.* On 8 May 2018, the military judge sentenced Appellant to a bad-conduct discharge, confinement for 28 days, forfeiture of \$800.00 pay per month for six months, and reduction to the grade of E-1.

Appellant's case was initially docketed with this court on 18 July 2018. On 13 November 2018, the case was submitted for our review on its merits without assignment of error. During our review, we found the convening authority's initial action, dated 25 June 2018, and a second action, dated 3 July 2018, were ambiguous as to the sentence the convening authority approved. Thus, on 14 February 2019, we returned the record of trial to The Judge Advocate General for remand to the convening authority to withdraw the actions, substitute a corrected action, issue a corrected court-martial order, and return the record of trial to this court for completion of appellate review. *See United States v. Stamps*, No. ACM S32532, 2019 CCA LEXIS 59 at *6 (A.F. Ct. Crim. App. 14 Feb. 2019) (unpub. op.).

On 4 March 2019, the convening authority withdrew the actions and commuted only so much of the sentence as provided for 28 days confinement to 14 days confinement and 14 days restriction to the limits of Keesler Air Force Base. The convening authority's substituted action approved a sentence, as commuted, of a bad-conduct discharge, confinement for 14 days, restriction to the limits of Keesler Air Force Base for 14 days, forfeiture of \$800.00 pay per month for 6 months, and reduction to the grade of E-1. A corrected court-martial order was promulgated. The case was again reviewed by this court on its merits without assignment of error, and upon further review, we find the corrected action and court-martial order are unambiguous.

The approved findings and sentence are correct in law and fact, and no error materially prejudicial to Appellant's substantial rights occurred. Articles 59(a) and 66(c), Uniform Code of Military Justice, 10 U.S.C. §§ 859(a), 866(c). Accordingly, the approved findings and sentence are **AFFIRMED**



FOR THE COURT

Carol K. Joyce

CAROL K. JOYCE
Clerk of the Court

* All references in this opinion to the Uniform Code of Military Justice are to the *Manual for Courts-Martial, United States* (2016 ed.).