

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

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**UNITED STATES**

**v.**

**Airman WILLIAM E. MONTGOMERY JR.  
United States Air Force**

**ACM 35139**

**30 December 2003**

Sentence adjudged 27 March 2002 by GCM convened at Moody Air Force Base, Georgia. Military Judge: Gregory Pavlik.

Approved sentence: Bad-conduct discharge, confinement for 6 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, and Major Maria A. Fried.

Appellate Counsel for the United States: Colonel LeEllen Coacher and Lieutenant Colonel Lance B. Sigmon.

Before

**BRESLIN, MOODY, and BILLETT**  
Appellate Military Judges

**OPINION OF THE COURT**

**BILLETT, Judge:**

The appellant was convicted, in accordance with his pleas, of wrongfully distributing approximately 20 grams of marijuana, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. A general court-martial consisting of officer members sentenced the appellant to a bad-conduct discharge, confinement for 6 months, forfeiture of all pay and allowances, and reduction to the grade of E-1. The convening authority approved the sentence as adjudged. On appeal, the appellant alleges, pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), that his sentence is inappropriately severe.

This Court “may affirm only such findings of guilty and the sentence or such part or amount of the sentence, as it finds correct in law and fact and determines, on the basis

of the entire record, should be approved.” Article 66(c), UCMJ, 10 U.S.C. § 866(c). In order to determine the appropriateness of the sentence, this Court must consider the particular appellant, the nature and seriousness of the offense, the appellant’s record of service, and all matters contained in the record of trial. *United States v. Snelling*, 14 M.J. 267 (C.M.A. 1982).

A fellow airman contacted the appellant and asked him if he had any marijuana. The appellant informed him that he did not. However, the appellant later went to a nightclub where he learned of an individual who could supply marijuana to his friend. The appellant contacted the fellow airman to inform him of this source. At his friend’s request, the appellant met him off-base. The fellow airman gave the appellant \$100.00 to purchase one ounce of marijuana. The appellant did this and later transferred the marijuana to him.

The appellant’s military record is unimpressive. In 26 months of active duty service, the appellant compiled a letter of counseling, a letter of reprimand, a nonjudicial punishment under Article 15, UCMJ, 10 U.S.C. § 815, and an action that vacated the suspended punishment from the nonjudicial punishment action. The letter of counseling and letter of reprimand involved failing a dormitory inspection and failing to report for duty, respectively. The appellant received nonjudicial punishment for unauthorized use of his government credit card. His punishment included a suspended reduction in rank. Subsequently, the earlier suspension of rank reduction was vacated when the appellant made a false official statement. Having reviewed the entire record, we hold that the approved sentence is not inappropriately severe. *United States v. Healy*, 26 M.J. 394, 395 (C.M.A. 1988).

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; *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

HEATHER D. LABE  
Clerk of Court

