

**IN THE U.S. NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS  
WASHINGTON NAVY YARD  
WASHINGTON, D.C.**

**BEFORE**

**E.E. GEISER**

**F.D. MITCHELL**

**M.W. PEDERSEN**

**UNITED STATES**

**v.**

**David B. COFFEY  
Sergeant (E-5), U.S. Marine Corps**

NMCCA 200700210

Decided 31 July 2007

Sentence adjudged 19 October 2006. Military Judge: V.C. Danyluk. Staff Judge Advocate's Recommendation: Capt W.J. Schrantz, USMC. Review pursuant to Article 66(c), UCMJ, of General Court-Martial convened by Commanding General, 2d Marine Division, Camp LeJeune, NC.

CDR TED YAMADA, JAGC, USN, Appellate Defense Counsel  
CAPT THOMAS J. DEMAY, JAGC, USN, Appellate Government Counsel  
LT JUSTIN E. DUNLAP, JAGC, USN, Appellate Government Counsel

AS AN UNPUBLISHED DECISION, THIS OPINION DOES NOT SERVE AS PRECEDENT.

PEDERSEN, Judge:

A military judge sitting as a general court-martial convicted the appellant, consistent with his pleas, of attempting to wrongfully distribute approximately 485 grams of marijuana, desertion, and wrongfully possessing approximately 306.22 grams of marijuana with an intent to distribute, in violation of Articles 80, 85, and 112a, Uniform Code of Military Justice, 10 U.S.C. §§ 880, 885, and 912a. The appellant was sentenced to confinement for six years, reduction to pay grade E-1, and a dishonorable discharge. The convening authority approved the sentence as adjudged but, pursuant to a pretrial agreement, suspended all confinement in excess of two years for a period of twelve months from the date of his action. We have examined the record of trial, the assignment of error, and the Government's response. We have determined that the findings are correct in law and fact, and that no error materially prejudicial to the substantial rights of the appellant was committed. Arts. 59(a) and 66(c), UCMJ.

The appellant's sole assignment of error, submitted pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), is that his sentence was inappropriately severe. He requests that we suspend any confinement in excess of one year. Appellant's Brief of 7 May 2007 at 5.

In early 1999, prior to starting terminal leave from the Marine Corps after an outstanding enlistment, the appellant, who was having financial difficulties, arranged through his brother to purchase almost two pounds of marijuana in Seattle, Washington. He drove it back to Jacksonville, North Carolina, and stored it in the family home. On or about 13 February 1999, just after beginning terminal leave, he attempted to sell part of the marijuana to an informant for the Jacksonville Police Department. He was arrested. To his credit, the appellant was forthright with the arresting officers and disclosed that, in addition to the 485 grams of marijuana in his car for the sale, he had an additional 306.72 grams at home. The police confiscated the additional marijuana during a subsequent consent search. Initially believing the matter would be resolved in the state court in North Carolina, the appellant engaged local counsel and obtained a favorable plea agreement. Ultimately, however, the United States Marine Corps exercised jurisdiction. Shortly thereafter, on or about 5 March 1999, the appellant fled to Canada<sup>1</sup> and remained there for over seven years, until extradited to the United States.

The appellant's argument, that he sold the marijuana for the welfare of his family, is undermined by evidence that he could have reenlisted, or obtained work, as he did after fleeing to Canada. His conduct illustrates the reverse of honor, courage and commitment. Based on our review of the record of trial, and the appellant's military record, we have determined that the sentence approved by the convening authority is appropriate for this offender and his offenses. *United States v. Baier*, 60 M.J. 382 (C.A.A.F. 2005); *United States v. Healy*, 26 M.J. 394, 395 (C.M.A. 1988); *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982). Accordingly, the approved findings and sentence are affirmed.

Senior Judge GEISER and Judge MITCHELL concur.

For the Court

R.H. TROIDL  
Clerk of Court

---

<sup>1</sup> The appellant is a United States citizen by birth, but at an early age, moved to Canada with his parents, where he was raised and, since 1978, he has been a landed immigrant. His wife, originally from Africa, is a Canadian citizen. Record at 71, 115.