UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman Basic CHRISTOPHER E. BECHTOLD
United States Air Force

ACM S31913

19 December 2012

Sentence adjudged 14 December 2010 by SPCM convened at Davis-Monthan Air Force Base, Arizona. Military Judge: David S. Castro (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 8 months, and forfeiture of $964.00 pay for 1 month.

Appellate Counsel for the Appellant: Captain Robert D. Stuart.

Appellate Counsel for the United States: Colonel Don M. Christensen; Lieutenant Colonel Linell A. Letendre; Major Scott C. Jansen; and Gerald R. Bruce, Esquire.

Before

GREGORY, HARNEY, and CHERRY
Appellate Military Judges

PER CURIAM:

A special court-martial composed of military judge alone convicted the appellant in accordance with his pleas of attempted use of Lysergic Acid Diethylamide (LSD), use of "Spice," use of cocaine, distribution of Ambien, distribution of Lorazepam, distribution of Tramadol, and theft, in violation of Articles 80, 92, 112a, 121, and 134, UCMJ, 10 U.S.C. §§ 880, 892, 912a, 921, 934, and sentenced him to a bad-conduct discharge, confinement for eight months, and forfeiture of $964 "pay for eight months."

The convening authority approved the bad-conduct discharge and confinement for eight months but approved a forfeiture of only $964 pay for one month.[1]

The appellant argues that certain specifications are an unreasonable multiplication of charges. However, as the appellant acknowledges, the issue was waived as part of a pretrial agreement that reduced the appellant's punitive exposure to the jurisdictional maximum of a special court-martial. Under the circumstances of this case, we find no reason to reject the waiver. *See United States v. Gladue*, 67 M.J. 311 (C.A.A.F. 2009).

Conclusion

The approved findings and sentence are correct in law and fact and no error prejudicial to the substantial rights of the appellant occurred.[2] Article 66(c), UCMJ, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

STEVEN LUCAS
Clerk of the Court

[1] The court-martial order (CMO) erroneously omits language indicating that the stated sentence was approved, which was contained in the convening authority's Action, dated 4 March 2011. We order the promulgation of a corrected CMO.

[2] We note that the overall delay of over 18 months between the time the case was docketed at the Air Force Court of Criminal Appeals and completion of review by this Court is facially unreasonable. Because the delay is facially unreasonable, we examine the four factors set forth in *Barker v. Wingo*, 407 U.S. 514, 530 (1972): (1) the length of the delay, (2) the reasons for the delay, (3) the appellant's assertion of the right to timely review and appeal, and (4) prejudice. *See United States v. Moreno*, 63 M.J. 129, 135-36 (C.A.A.F. 2006). When we assume error but are able to directly conclude that any error was harmless beyond a reasonable doubt, we do not need to engage in a separate analysis of each factor. *See United States v. Allison*, 63 M.J. 365, 370 (C.A.A.F. 2006). This approach is appropriate in the appellant's case. The post-trial record contains no evidence that the delay has had any negative impact on the appellant. Having considered the totality of the circumstances and the entire record, we conclude that any denial of the appellant's right to speedy post-trial review and appeal was harmless beyond a reasonable doubt.