UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman First Class ANTONIO J. GREEN
United States Air Force

ACM 35944

26 January 2006

Sentence adjudged 5 February 2004 by GCM convened at Moody Air Force Base, Georgia. Military Judge: Linda S. Murnane and Kevin P. Koehler.

Approved sentence: Bad-conduct discharge, confinement for 100 days, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Carlos L. McDade, Lieutenant Colonel Robin S. Wink, Major Sandra K. Whittington, and Captain Christopher S. Morgan.

Appellate Counsel for the United States: Lieutenant Colonel Gary F. Spencer, Lieutenant Colonel Robert V. Combs, Major John C. Johnson, and Captain Stacey J. Vetter.

Before

STONE, SMITH, and MATHEWS
Appellate Military Judges

PER CURIAM:

We have reviewed the record of trial, the appellant's assignment of error, and the government's reply thereto. The appellant contends that the period between the conclusion of his trial and the convening authority's action was so excessive as to require post-trial relief. We disagree.

One hundred twelve days elapsed between trial and action in the appellant's case. We do not consider this period to be "facially unreasonable" for a fully-litigated general court-martial, tried before members over a three-day period. In the absence of such an unreasonable delay, no further inquiry is necessary. *See United States v. Jones*, 61 M.J. 80, 83 (C.A.A.F. 2005). Even were we to conclude otherwise, we would find no basis for

relief. The appellant's case was one of several tried at his base in roughly the same time frame, and we cannot conclude on the basis of the evidence before us that the staff judge advocate abused his discretion in prioritizing the post-trial processing of the cases. Furthermore, there is no indication that the convening authority, who approved the appellant's sentence as adjudged, would have granted clemency but for the delay. In short, the time it took to process the appellant's record was not excessive, unjustified, or prejudicial. *See Toohey v. United States*, 60 M.J. 100, 102 (C.A.A.F. 2004).

The 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, 10 U.S.C. § 866(c); *United States v. Reed*, 54 M.J. 37, 41 (C.A.A.F. 2000). Accordingly, the findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE
Clerk of Court