UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman LAUREN A. MOHR
United States Air Force

ACM 36947

24 September 2008

Sentence adjudged 11 January 2007 by GCM convened at Lackland Air Force Base, Texas. Military Judge: Maura McGowan (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 9 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for the Appellant: Lieutenant Colonel Mark R. Strickland and Captain Griffin S. Dunham.

Appellate Counsel for the United States: Colonel Gerald R. Bruce and Major Donna S. Rueppell.

Before

WISE, BRAND, and HELGET
Appellate Military Judges

PER CURIAM:

In accordance with her pleas, the appellant was convicted of two specifications of wrongful drug use and four specifications of larceny, in violation of Articles 112a and 121, UCMJ, 10 U.S.C. §§ 912a, 921. The approved sentence consists of a bad-conduct discharge, confinement for nine months, forfeiture of all pay and allowances, and reduction to E-1.

The issue on appeal is whether the appellant is entitled to a corrected Court-Martial Promulgating Order (CMO). The government concedes this error.

Discussion

We agree that the CMO is incorrect. Preparation of a corrected CMO, properly reflecting that Specification 5 of Charge II was dismissed prior to arraignment, is hereby directed. *See United States v. Smith*, 30 M.J. 1022, 1028 (A.F.C.M.R. 1990). Additionally, the name of the trial judge needs to be correctly identified as Colonel Maura McGowan.*

We also note that this case has been with this Court in excess of 540 days. Thus, the overall delay between the trial 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 need not 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.

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 and that no relief is warranted.

Conclusion

The approved findings and the 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).

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* The CMO listed Lieutenant Colonel Barbara Brand as the trial judge. In January 2007, Lieutenant Colonel Barbara Brand was Colonel Barbara Brand and was assigned to the United States Air Force Court of Criminal Appeals. Colonel Barbara Brand did not sit as the trial judge in this case.

Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

STEVEN LUCAS, YA-02, DAF
Clerk of the Court