

**UNITED STATES NAVY-MARINE CORPS
COURT OF CRIMINAL APPEALS
WASHINGTON, D.C.**

**Before
F.D. MITCHELL, J.A. MAKSYM, R.E. BEAL
Appellate Military Judges**

UNITED STATES OF AMERICA

v.

**MICHAEL S. KING III
LANCE CORPORAL (E-3), U.S. MARINE CORPS**

**NMCCA 200900325
SPECIAL COURT-MARTIAL**

Sentence Adjudged: 8 April 2008.

Military Judge: LtCol Jeffrey Meeks, USMC.

Convening Authority: Commanding Officer, 3d Assault Amphibian Battalion, 1st Marine Division, FMF, Camp Pendleton, CA.

Staff Judge Advocate's Recommendation: LtCol R.M. Miller, USMC.

For Appellant: CAPT Martin Grover, JAGC, USN.

For Appellee: LtCol J.G. Scott, USMCR; Maj Elizabeth Harvey, USMC.

22 October 2009

OPINION OF THE COURT

AS AN UNPUBLISHED DECISION, THIS OPINION DOES NOT SERVE AS PRECEDENT.

PER CURIAM:

A military judge sitting as a special court-martial convicted the appellant, consistent with his pleas, of failure to obey a lawful order, making a false official statement, and two specifications of indecent acts, in violation of Articles 92, 107, and 120, Uniform Code of Military Justice, 10 U.S.C. §§ 892, 907, and 920. The appellant was sentenced to confinement for

one year, reduction to pay grade E-1, and a bad-conduct discharge. The convening authority approved the sentence as adjudged.

The appellant was tried and sentenced on 8 April 2008. The convening authority took action on 18 August 2008. Thirteen months elapsed from the date the appellant was sentenced to docketing of the case with this court (19 June 2009), and there is no explanation within the record for the delay. The appellant's sole assignment of error contends that he was denied speedy post-trial processing.

Assuming, without deciding, that the appellant was denied his due process right to speedy post-trial review, we conclude that any error in that regard was harmless beyond a reasonable doubt. *United States v. Allison*, 63 M.J. 365, 370 (C.A.A.F. 2006); see also *United States v. Haney*, 64 M.J. 101, 108 (C.A.A.F. 2006). Even if such error was not harmless, any relief we could fashion would be disproportionate to the possible harm generated from the delay in light of the appellant's offenses. *United States v. Rodriguez-Rivera*, 63 M.J. 372, 386 (C.A.A.F. 2006).

We are aware of our authority to grant relief under Article 66, UCMJ, and in this case we choose not to exercise it. *United States v. Simon*, 64 M.J. 205 (C.A.A.F. 2006); *Toohy v. United States*, 60 M.J. 100, 102 (C.A.A.F. 2004); *United States v. Tardif*, 57 M.J. 219, 224 (C.A.A.F. 2002); *United States v. Brown*, 62 M.J. 602 (N.M.Ct.Crim.App. 2005)(en banc).

The approved findings and sentence are affirmed.

For the Court

R.H. TROIDL
Clerk of Court