

Thursday, 10 April 2014 (1000)

*United States v. Evans*

**Before Panel 3 of the Court: Senior Judge Mitchell  
Judge Jamison  
Judge Fischer**

**For Appellant: LT Gabriel Bradley, JAGC, USN**

**For Appellee: LT Ian MacLean, JAGC, USN**

A panel of members sitting as a general court-martial, convicted appellant, contrary to his plea, of one specification of possession of child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934 (2012). The members sentenced appellant to eighteen months confinement and a dishonorable discharge. The Convening Authority approved the sentence as adjudged and, except for the dishonorable discharge, ordered it executed.

The two issues to be argued before this Court are as follows:

- I. THE CONSTITUTION PROTECTS AN ACCUSED'S RIGHT TO A SPEEDY TRIAL. HERE, PETTY OFFICER EVANS SUFFERED PREJUDICE FROM PRETRIAL DELAY DUE TO ADMINISTRATIVE AND MANPOWER CONSTRAINTS. DID THIS VIOLATE HIS CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL?
  
- II. AFTER WITHDRAWING A CHARGE FROM A COURT-MARTIAL, A CONVENING AUTHORITY MAY NOT REFER THE WITHDRAWN CHARGE TO ANOTHER COURT-MARTIAL UNLESS THE WITHDRAWAL WAS FOR A PROPER REASON. HERE, THOUGH THE WITHDRAWAL WAS SOLELY DUE TO PROSECUTORIAL INEPTITUDE, THE MILITARY JUDGE ALLOWED THE CONVENING AUTHORITY RE-REFER. DID THIS ERROR PREJUDICE PETTY OFFICER EVANS?