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

Before
F.D. MITCHELL, L.T. BOOKER, J.A. MAKSYM
Appellate Military Judges

UNITED STATES OF AMERICA

v.

JERMAINE B. HUDSON
STOREKEEPER SECOND CLASS (E-5), U.S. NAVY

NMCCA 200602449
SPECIAL COURT-MARTIAL

Sentence Adjudged: 19 May 2006.
Military Judge: CAPT Salvador Dominguez, JAGC, USN.
Convening Authority: Commander, Helicopter Maritime Strike Wing, U.S. Atlantic Fleet, Naval Station, Mayport, FL.
For Appellant: CAPT Martin Grover, JAGC, USN.
For Appellee: Maj E.A. Harvey, USMC; LCDR C.G. Trivett, JAGC, USN.

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AS AN UNPUBLISHED DECISION, THIS OPINION DOES NOT SERVE AS PRECEDENT.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 unauthorized absence and wrongful appropriation, in violation of Articles 86 and 121, Uniform Code of Military Justice, 10 U.S.C. §§ 886 and 921. The appellant was sentenced to confinement for five months, reduction to pay grade E-3, and a bad-conduct discharge. The convening authority approved the sentence as adjudged.

This case is before this court a second time. On 27 February 2007, this court reviewed the record, submitted without assignment of error, and affirmed the findings and sentence as approved by the convening authority. *United States v. Hudson*, No. 200602449, unpublished op. (N.M.Ct.Crim.App. 27 Feb 2007). On 3 May 2007, this court granted the Government's motion to vacate the previous decision and remanded the case back to the convening authority for a new staff judge advocate's recommendation (SJAR) and convening authority's (CA's) action.[1] On 19 May 2009, the convening authority completed the new CA's action and two days later the case was docketed with this court. Approximately 24 months elapsed between this court's order remanding the case for a new SJAR and CA's action and the docketing of this case back with the court. The appellant now 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); *Toohey 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

[1] The original CA's action was ambiguous and there was a question as to whether the convening authority approved the bad-conduct discharge.