

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

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UNITED STATES

v.

Staff Sergeant PETER J. ALOGNA  
United States Air Force

ACM 35652

12 August 2005

Sentence adjudged 21 March 2003 by GCM convened at MacDill Air Force Base, Florida. Military Judge: Thomas G. Crossan, Jr. (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 10 months, forfeiture of all pay and allowances, and reduction to E-1.

Appellate Counsel for Appellant: Major Terry L. McElyea, Major Harold M. Vaught, and Major L. Martin Powell.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Robert V. Combs, and Captain C. Taylor Smith.

Before

STONE, SMITH, and MATHEWS  
Appellate Military Judges

PER CURIAM:

We have examined the record of trial, the assignments of error, and the government's reply thereto. The appellant contends, and the government concedes, that he should have been given credit for 228 days in pretrial confinement rather than 227. It appears that the parties at trial miscalculated the appellant's period of confinement to his detriment, and thus he is entitled to relief in the form of one day's pay. *See United States v. Sherman*, 56 M.J. 900, 903 (A.F. Ct. Crim. App. 2002).

As to the remaining assignments of error, we have reviewed the appellant's jurisdictional and speedy trial claims de novo, and find that the military judge's rulings were supported by the evidence and are correct in law and fact. Accordingly, we resolve those issues adversely to the appellant. *See United States v. Melanson*, 53 M.J. 1, 4 (C.A.A.F. 2000); *United States v. Cooper*, 58 M.J. 54, 57 (C.A.A.F. 2003). Similarly, we

have reviewed the evidence offered against the appellant on the litigated specifications and find that it was legally and factually sufficient to find him guilty, and we are ourselves convinced of his guilt beyond a reasonable doubt. *United States v. Turner*, 25 M.J. 324, 324-25 (C.M.A. 1987). Finally, we conclude that the military judge did not err when defining the scienter element of knowing possession of child pornography in violation of 18 U.S.C. § 2252A. *United States v. Maxwell*, 45 M.J. 406, 424 (C.A.A.F. 1996).

The approved findings and sentence are correct in law and fact, and other than the erroneous calculation of the appellant's pretrial confinement credit, no error prejudicial to his substantial rights 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 approved findings and sentence are

AFFIRMED.

OFFICIAL

ANGELA M. BRICE  
Clerk of Court