

**UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

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**UNITED STATES**

**v.**

**Staff Sergeant VINCENT C.T. FINONA  
United States Air Force**

**ACM 35233**

**15 June 2004**

Sentence adjudged 30 May 2002 by GCM convened at Randolph Air Force Base, Texas. Military Judge: Steven A. Hatfield (sitting alone).

Approved sentence: Bad-conduct discharge, confinement for 9 months, and reduction to E-1.

Appellate Counsel for Appellant: Colonel Beverly B. Knott, Major Terry L. McElyea, Major Andrew S. Williams, and Major Antony B. Kolenc.

Appellate Counsel for the United States: Colonel LeEllen Coacher, Lieutenant Colonel Robert V. Combs, Lieutenant Colonel William B. Smith, and Major John D. Douglas.

Before

**STONE, MOODY, and JOHNSON**  
Appellate Military Judges

**PER CURIAM:**

We have examined the record of trial, the assignment of error, and the government's reply thereto. The appellant contends his right to a speed trial under Rule for Courts-Martial (R.C.M.) 707 and Article 10, UCMJ, 10 U.S.C. § 810, was violated. First, we hold that the appellant's pleas of guilty waived the speedy trial issue as to all offenses except desertion, to which he pled not guilty. R.C.M. 707(e). As to the desertion offense, we review the appellant's speedy trial claim de novo. *United States v. Cooper*, 58 M.J. 54 (C.A.A.F. 2003); *United States v. Doty*, 51 M.J. 464 (C.A.A.F. 1999). Turning first to R.C.M. 707, we conclude that, excluding properly authorized delays, the appellant was brought to trial within 120 days of the imposition of pretrial confinement. Therefore, we hold that the appellant was not denied his R.C.M. 707 speedy trial rights. *See United States v. Proctor*, 58 M.J. 792 (A.F. Ct. Crim. App. 2003). Furthermore, we

conclude that the government acted with “reasonable diligence” in bringing the appellant to trial. *United States v. Kossman*, 38 M.J. 258, 262 (C.M.A. 1993). We further hold that the appellant was not denied the speedy trial rights set forth under Article 10, UCMJ. *See Barker v. Wingo*, 407 U.S. 514 (1972); *Cooper*, 58 M.J. at 60; *United States v. Birge*, 52 M.J. 209 (C.A.A.F. 1999). In fact, the appellant conceded on the record that his speedy trial rights under the Sixth Amendment were not violated. The same criteria apply there as do under Article 10, UCMJ. *Birge*, 52 M.J. at 212.

The approved findings and 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). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

FELECIA M. BUTLER, TSgt, USAF  
Chief Court Administrator