UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

v.

Airman Basic GARY B. MATLI
United States Air Force

ACM 34596

4 February 2003

Sentence adjudged 1 March 2001 by GCM convened at Keesler Air Force Base, Mississippi. Military Judge: James L. Flanary (sitting alone).

Approved sentence: Dishonorable discharge and confinement for 4 years.

Appellate Counsel for Appellant: Major Natasha V. Wrobel

Appellate Counsel for the United States: Colonel Anthony P. Dattilo, Lieutenant Colonel Lance B. Sigmon, and Captain Matthew J. Mulbarger.

Before

BRESLIN, STONE, and EDWARDS
Appellate Military Judges

OPINION OF THE COURT

BRESLIN, Senior Judge:

In accordance with his conditional pleas,[*] the appellant was convicted of numerous offenses, including absence without leave (AWOL), use and distribution of illegal drugs, disrespect to a noncommissioned officer, extortion, assault on a sentinel, soliciting another to assault a sentinel, and communicating a threat, in violation of Articles 86, 91, 112a, 127, 128, and 134, UCMJ, 10 U.S.C. §§ 886, 891, 912a, 927, 928, 934. The sentence adjudged and approved was a dishonorable discharge and confinement for 4 years.

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[*] *See* Rule for Courts-Martial (R.C.M.) 910(a)(2).

The appellant argues he was denied his right to a speedy trial as guaranteed by R.C.M. 707, Article 10, UCMJ, 10 U.S.C. § 810, and the Sixth Amendment to the Constitution. The appellant also argues he was subjected to illegal punishment while in pretrial confinement, in violation of Article 13, UCMJ, 10 U.S.C. § 813. We find no error and affirm.

Speedy Trial

The appellant was stationed at Keesler Air Force Base (AFB), Mississippi, as a student in a training squadron. On 26 July 2000, he left his unit without authority. He spent the next several days with friends in Biloxi and New Orleans. During this time he went back to his dormitory room occasionally to shower and change clothes, but never returned to military control. At about noon on 1 August 2000, authorities found the appellant asleep in his dormitory room.

Agents from the Air Force Office of Special Investigations (AFOSI) questioned the appellant about his unauthorized absence and drug offenses of which he was suspected. The appellant confessed to extensive use of lysergic acid diethylamide (LSD), methylenedioxymethamphetamine (also known as "ecstasy"), and marijuana, and to distribution of LSD and ecstasy. He told the agents that he wanted very much to be discharged from the Air Force, and wrote, "There are no limits to what I would do to get out." When asked if he would go AWOL again, he wrote, "I don't know, sometimes I do things w/o thinking of the consequences."

In the early morning hours of 2 August 2000, the appellant's first sergeant ordered him into pretrial confinement for the AWOL and drug offenses. A pretrial confinement review hearing was scheduled for the next day, but was delayed until 7 August 2000 due to the unavailability of defense counsel. The pretrial confinement review officer found probable cause to believe that the appellant had committed the offenses alleged, and that continued pretrial confinement was required because the appellant was likely to flee and to engage in further serious misconduct.

The ensuing investigation revealed 26 Air Force members involved in illegal drug use and distribution. The government settled upon a plan to prosecute the lesser offenders first, then use those individuals to assist in the prosecution of the more serious cases. Under the plan, the appellant was considered the most serious offender.

As a pretrial confinee, the appellant was frequently disobedient and disruptive. On 8 October 2000, the appellant began yelling from the top of his wall locker, and jumping on his bed imitating a monkey. When ordered to stop he complied temporarily, but then began again. The guards placed him in a segregation cell, where he began to kick the door. When a guard opened the door to stop him, the appellant lowered his head and charged the guard. While the appellant was being subdued, he directed racial slurs and

profanity toward one of the guards, a non-commissioned officer (NCO). Later that day, the appellant solicited another prisoner to assault a guard.

On 10 October 2000, the special court-martial convening authority granted a defense request for a sanity board to determine whether the appellant was mentally competent. The convening authority ordered that the time required to conduct the examination and to prepare, distribute, and review the report be excluded for speedy trial purposes. The defense and trial counsel received copies of the sanity board report on 8 and 9 November 2000, respectively. The sanity board found the appellant had several mental health issues, including polysubstance dependence, an adjustment disorder, and an antisocial personality disorder, but concluded he was sufficiently competent and responsible for trial.

During his pretrial confinement, the appellant managed to engage in sexual relations with his girlfriend, AB Andrea Rowe, who was also in pretrial confinement for related drug offenses. He learned that one of the guards, SrA Daniel Asbell, had sexual relations with a female confinee, AB Misty Hernandez. Between 1 November and 15 December 2000, the appellant threatened to report SrA Asbell unless he allowed the appellant to engage in sexual relations with AB Rowe.

Also during his time in pretrial confinement, on multiple occasions through December 2000, the appellant threatened to kill or injure another guard, SrA Gary Ritter. SrA Ritter took the threats seriously.

In the months following the appellant's entry into pretrial confinement, the government prosecuted several service members who also used illegal drugs with the appellant, including airmen Hammond, Hernandez, Dillon, Ramos, and Caddy. In each case, the government obtained a PTA that required the airmen to testify against the appellant at trial.

On 17 November 2000, the staff judge advocate asked the special court-martial convening authority to exclude all time until 1 February 2001 for speedy trial purposes, because of the office's heavy workload and the complexity of the appellant's case, especially obtaining the testimony of military members who were involved in drug abuse with the appellant and who were also facing court-martial charges for their misconduct. The defense counsel opposed the request and asserted the appellant's right to a speedy trial. Later, the staff judge advocate submitted additional matters in support of the request, noting that the government was also investigating additional offenses the appellant committed in confinement. The convening authority granted the exclusion of time until 1 February 2001.

In late November 2000, the parties discussed a possible PTA, including a waiver of the appellant's right to a hearing under Article 32, UCMJ, 10 U.S.C. § 832. On 4 and

5 December 2000, the prosecution and the defense asked the chief circuit military judge to reserve the 15th of December 2000 as a trial date. On 6 December 2000, the government preferred charges against the appellant for his AWOL and drug offenses. The next day, the chief circuit military judge confirmed the availability of 15 December as a trial date. On 8 December 2000, the appellant submitted an offer for a PTA. As part of the proffered agreement, the defense included a condition that the government would not charge the appellant with violations of Article 91 (insubordinate conduct to NCO) or Article 128 (assault) for conduct before 11 December 2000. However, the general court-martial convening authority rejected the proffered PTA.

On 17 January 2001, the parties began discussing a new PTA. On 22 January 2001, the government preferred the additional charges for the offenses that occurred during pretrial confinement. The parties conducted the formal investigation of all charges under Article 32, UCMJ, on 24 January 2001, and the report was completed on 5 February 2001. On 15 February 2001, the appellant submitted a new offer for a PTA. The convening authority referred the charges to trial by general court-martial on 16 February 2001, and approved the new offer for PTA on 20 February 2001.

The government requested a trial date, and advised the chief circuit military judge the government could be ready for trial on 22 February 2001. The chief circuit military judge scheduled trial for 1 March 2001, and excluded the time between 22 February and 1 March 2001 for speedy trial purposes.

The appellant was arraigned on 1 March 2001. At that time, he had been in pretrial confinement for 211 days. The appellant moved to dismiss all the charges due to a violation of his right to a speedy trial. The military judge took evidence on the motion including a stipulated chronology of events, a stipulation of fact, and stipulations of expected testimony. The military judge ultimately denied the motion. Thereafter, the appellant entered a conditional plea of guilty to all the offenses, preserving for appeal the issue of whether he was denied a speedy trial. The appellant now argues that the military judge erred in denying the motion to dismiss for violation of his right to speedy trial.

Service members tried by courts-martial have a right to a speedy trial. Military law identifies several sources for this right. *United States v. Becker*, 53 M.J. 229, 231 (2000); *United States v. Kossman*, 38 M.J. 258 (C.M.A. 1993); *United States v. Vogan*, 35 M.J. 32, 33 (C.M.A. 1992). R.C.M. 707, promulgated by the President, requires that a person must be brought to trial within 120 days of preferral of charges, imposition of pretrial restraint, or activation of a reservist for court-martial purposes. *United States v. Birge*, 52 M.J. 209, 210 (1999). Article 10, UCMJ, provides that where a person is placed in arrest or confinement, "immediate steps shall be taken . . . to try him or to dismiss the charges." Additionally, our superior court holds that the Sixth Amendment applies to courts-martial, and guarantees "the right to a speedy and public trial." *Id.* at 211.

Whether an appellant received a speedy trial is an issue of law, which we review de novo. *United States v. Doty*, 51 M.J. 464, 465 (1999). However, we give substantial deference to the military judge's findings of fact, and will reverse them only for clear error. *United States v. Taylor*, 487 U.S. 326, 337 (1988); *United States v. Edmond*, 41 M.J. 419, 420 (1995). We review the decision whether to grant a delay for an abuse of discretion and reasonableness. *See* Drafter's Analysis, *Manual for Courts-Martial, United States* (*MCM*), A21-42 (2002 ed.); *United States v. Longhofer*, 29 M.J. 22, 28 (C.M.A. 1989); *United States v. Nichols*, 42 M.J. 715, 721 (A.F. Ct. Crim. App. 1995).

The appellant alleges a denial of his right to a speedy trial under R.C.M. 707, Article 10, UCMJ, and the Sixth Amendment. We will consider each of these.

A. R.C.M. 707.

R.C.M. 707 provides that an accused "shall be brought to trial within 120 days" of the imposition of pretrial confinement. The purpose of the specific time limit in the rule is to protect the appellant's right to a speedy trial under the Sixth Amendment and Article 10, UCMJ, and society's interests in the prompt administration of justice. *MCM*, A21-41.

It is possible to exclude certain periods of time from the 120-day limit in the rule. A previous version of R.C.M. 707 excluded time periods if they fell into specific categories. That rule proved unworkable–and was roundly criticized by appellate courts–because it was not clear what was properly considered a delay until the matter was raised in a motion to dismiss the charges. *See United States v. Dies*, 45 M.J. 376, 377-78 (1996) (and cases cited therein). Under the current version, pretrial delays may be excluded if "approved by a military judge or the convening authority." R.C.M. 707(c). The purpose of the rule change was to "eliminate after-the-fact determinations as to whether certain periods of delay are excludable." *MCM*, A21-41. As this Court has previously noted, "After-the-fact exclusion of time from the government's speedy trial accountability is no longer an option." *Nichols*, 42 M.J. at 721 (citing *United States v. Youngberg*, 38 M.J. 635, 638 (A.C.M.R. 1993) and Captain Eric D. Placke, *R.C.M. 707 and the New Speedy Trial Rules*, THE REPORTER, Vol. 18, No. 4 (December 1991)).

The military judge found three periods of excludable delay in this case: the first for the sanity board, the second for the Article 32 investigation, and the third for scheduling the trial. The factual basis for the military judge's rulings was the evidence admitted by stipulation of the parties. There was an ample basis for the military judge's factual findings, and thus we find no error. *Edmond*, 41 M.J. at 420. We must consider the correctness of the military judge's ruling on each of these delays.

1. Sanity Board.

At the time he ordered the sanity board on 10 October 2000, the convening authority excluded for speedy trial purposes the time required to conduct the hearing and to prepare, distribute and review the report. The report was finally distributed on 9 November 2000. The military judge approved the exclusion of that time under R.C.M. 707.

R.C.M. 707(c) provides that "pretrial delays approved by a military judge or the convening authority shall be . . . excluded." The Discussion to R.C.M. 707(c)(1) indicates that one reason to grant a delay might be "time to allow examination into the mental capacity of the accused." The appellant concedes the appropriateness of some period of delay beginning 10 October, but argues that the excluded period should end on 1 November 2000–the date of the report–rather than the date it was distributed. We do not agree.

Although the report was dated 1 November 2000, it is not apparent whether both physicians signed it on that date, or whether some further review was required. We know that special handling is required for reports of sanity boards, because of the privileged material involved and because there are actually two reports–only one of which may be sent to the government. We note that the sanity board report was first distributed to the defense counsel on the fourth business day after the date of the report, and to the prosecution the following day. We find the convening authority properly granted this delay, and the military judge properly excluded the time for speedy trial purposes.

2. Delay for Article 32 Investigation.

At the request of the staff judge advocate, the convening authority approved an exclusion of time from 17 November 2000 to 1 February 2001. The military judge noted that such delays are only approved until some distinct event, therefore the military judge allowed only a delay between 17 November 2000 and 23 January 2001, the day before the Article 32 investigation.

We agree with the analysis of the military judge that the delay granted by the convening authority did not continue after the beginning of the Article 32 investigation. R.C.M. 707 authorizes a convening authority to grant a delay until the next event, not blanket exclusions of time while the case is being processed. *See United States v. Proctor*, ACM 34532, slip op. at 5 (A.F. Ct. Crim. App. 27 Jan 2003); *United States v. Nichols*, 42 M.J. 715, 721 (A.F. Ct. Crim. App. 1995). Thus there was no basis for excluding the time after the commencement of the Article 32 investigation.

We also find the military judge properly excluded the time from 17 November 2000 until 23 January 2001 for speedy trial purposes. The Discussion to R.C.M. 707

(c)(1) indicates that one reason to grant a delay is granting counsel time to prepare for trial in complex cases. The sheer volume of crimes–the numbers of uses and distributions of illegal drugs–made the appellant's case somewhat more challenging. But it was the logistical problems of making the witnesses available for trial that made this case complex. The 26 cases of drug abuse were interrelated, requiring the appointment of defense counsel from many other bases to avoid conflicts of interest. The large number of witnesses–each with their own counsel–made this case more complicated. The military judge found that the availability of defense counsel influenced the docketing of these cases.

Another valid reason for a delay is to provide time to complete other related proceedings in a case. Discussion, R.C.M. 707(c)(1). Part of this period was consumed in pursuing the appellant's original offer for a PTA. The terms of the proposed agreement were very favorable for the appellant–he would waive the Article 32 investigation and plead guilty to the original charges, and the government would not prosecute the appellant for crimes previously committed in pretrial confinement. Both parties planned to resolve the case with this agreement; indeed, they had already confirmed a trial date of 15 December 2000. The rejection of the proposed agreement by the general court-martial convening authority, against the advice of all the counsel involved, stymied this plan. However, it was appropriate to grant a delay in part to consider the offer. It goes without saying that PTAs are beneficial to the parties; we hesitate to chill either side's interests in pursuing PTAs by holding that such delays cannot be considered for purposes of delay under R.C.M. 707.

The most significant consideration in judging the reasonableness of the delay is the government's interest in securing witnesses and evidence to prosecute the appellant for the offenses committed while in confinement. It is a long-standing policy that all offenses be disposed of at a single trial. *See* Discussion, R.C.M. 601(e)(2). If the appellant had been tried on the original charges at a separate court-martial, he would undoubtedly have remained in pretrial confinement, regardless of whether he was convicted, for the additional charges were still pending. Thus, there was nothing to be gained by either party by convening a separate proceeding. *See United States v. Johnson*, 48 C.M.R. 599, 601 (C.M.A. 1974). We find the decision to investigate and join the later offenses was reasonable. This required additional time, however. While the security forces personnel were no doubt readily available, the other prisoners who were witnesses were both represented by counsel and, in some cases, criminally culpable. The time taken to investigate the offenses and grant required testimonial immunity for necessary witnesses was not unreasonable. For all these reasons, we find the military judge was correct in approving this delay.

3. Docketing delay.

The charges were referred to trial on 16 February 2001. On that date the government requested trial on 22 February 2001. The parties negotiated a trial date of 1 March 2001, which was approved by the chief circuit military judge. Because the military judge approved the delay, the period between 22 February and 1 March 2001 is excluded for speedy trial purposes. R.C.M. 707(c). The military judge properly excluded this time.

A chronology of events is attached to this opinion and incorporated herein. We find that 211 days elapsed between the appellant's pretrial confinement and the date of trial. We find that a total of 111 accountable days elapsed on the original charges, and 31 accountable days elapsed on the additional charges. Thus, we find no violation of the 120-day standard in R.C.M. 707(a).

B. Article 10, UCMJ/Sixth Amendment.

The appellant also contends that his right to a speedy trial under Article 10, UCMJ, and the Sixth Amendment to the Constitution were violated. The Sixth Amendment to the Constitution guarantees "the right to a speedy and public trial." Art. 10, UCMJ, provides, in pertinent part,

> When any person subject to this chapter is placed in arrest or confinement prior to trial, immediate steps shall be taken to inform him of the specific wrong of which he is accused and to try him or to dismiss the charges and release him.

"The test for assessing an alleged violation of Article 10 is whether the Government has acted with 'reasonable diligence' in proceeding to trial." *United States v. Birge*, 52 M.J. 209, 211 (1999) (citing *United States v. Kossman*, 38 M.J. 258, 262 (C.M.A. 1993). "Brief periods of inactivity in an otherwise active prosecution are not unreasonable or oppressive." *United States v. Tibbs*, 35 C.M.R. 322, 325 (C.M.A. 1965).

Our superior court has determined that the speedy trial requirement of Art. 10, UCMJ, is more stringent than either the Sixth Amendment or R.C.M. 707. *Birge*, 52 M.J. at 211-12. Nonetheless, in determining whether a service member's right to a speedy trial under Article 10, UCMJ, has been violated, it is appropriate to consider the four factors employed by the Supreme Court in *Barker v. Wingo*, 407 U.S. 514, 530 (1972), specifically: "Length of the delay, the reason for the delay, the defendant's assertion of his right, and prejudice to the defendant." *Birge*, 52 M.J. at 212. We recognize, of course, that none of these factors have "talismanic qualities," instead, "courts must still

engage in a difficult and sensitive balancing process." *Barker v. Wingo*, 407 U.S. at 533. We will consider each of these factors as they apply in this case.

1. Length of Delay.

As discussed above, the appellant was in pretrial confinement for 211 days before trial on the original charges, but only 111 of those days were accountable for R.C.M. 707 speedy trial purposes. It was a long time to spend in confinement without an adjudication of guilt, but within the 120-day limit established by R.C.M. 707.

2. Reason for the Delay.

We balance many factors in determining whether the government has been "foot-dragging" in a particular case. Our superior court has held that "ordinary judicial impediments, such as crowded dockets, unavailability of judges, and attorney caseloads, must be realistically balanced." *Kossman*, 38 M.J. at 261-62. *See also Barker v. Wingo*, 407 U.S. at 531 (indicating a Court may consider the cause of the government's inability to move forward).

It took almost a month to complete the investigation of the appellant, and another month to finish the investigations of essential witnesses. While this period may be long in a normal situation, it was not unreasonable under the circumstances of this case. The appellant's return to military control on 1 August 2000 was unexpected. His numerous detailed confessions presented authorities with the daunting task of investigating and prosecuting 26 interrelated cases. The appellant's right to a speedy trial under Article 10 must be balanced against the government's legitimate interest in ferreting out crime and punishing offenders.

There was also a substantial period between the time the sanity board was finished and the appellant was brought to trial. It appears the government deliberately tried others first, to make them more readily available as witnesses against the appellant. The appellant argues that the government could have gotten testimonial immunity for the potential witnesses, and tried the appellant sooner. While that may be true, we also recognize that granting testimonial immunity to a member before he or she is prosecuted greatly complicates the administration of a crowded docket by requiring untainted prosecutors to handle the later trials. When the government tries a large number of related cases, someone must be first and someone must be last, and the simple fact that a particular person is last does not give rise to an Article 10 violation. The test is not whether the government could have prosecuted the case sooner, but whether the delay was unreasonable. There is no evidence that the government delayed the case for any malicious or improper purpose.

Finally, we note that some of the time was consumed in investigating and preparing for additional offenses the appellant committed in confinement. These charges were made complex by the fact that many of the necessary witnesses were prisoners who were also pending trial and potentially involved with the late offenses.

3. Appellant's Request for a Speedy Trial.

The appellant, through his counsel, demanded a speedy trial on 20 November 2000. At that point, the appellant had been in confinement for 110 days, with 80 of those days accountable for R.C.M. 707 speedy trial purposes. The defense did not request any delays, other than to delay the pretrial confinement review hearing date and the trial date to make counsel available. At the same time, we recognize that some of the time required for investigation arose because of the appellant's intentional misconduct while in confinement. While he did not request delays for this purpose, he is clearly responsible for them.

4. Prejudice to the Appellant.

When considering any prejudice to the accused, the most significant interest is the defense's ability to adequately prepare for trial, weighed against the risk that witnesses may die, disappear, or be unable to recall events. *Barker v. Wingo*, 407 U.S. at 532. In this case, the appellant makes no argument that the delay hindered his ability to present a defense, and we find no impairment.

Other defense interests recognized by the Supreme Court in *Barker v. Wingo* are the prevention of oppressive pretrial incarceration and the anxiety and concern suffered by an accused. The appellant complained about certain conditions of confinement, specifically the requirement that he wear a confinement jumpsuit and shackles when he was outside the confinement facility. However, it appears the conditions the appellant found oppressive were brought about, not by reason of a delay, but because of the appellant's own threats and misconduct while in pretrial confinement. Undoubtedly the appellant felt anxiety about the prospect of prosecution, but it was not more than any other individual might experience in pretrial confinement under normal circumstances.

Considering all the circumstances, we find no violation of Article 10, UCMJ in this case. For the same reasons, we conclude the appellant was not denied his right to a speedy trial under the Sixth Amendment.

Illegal Pretrial Punishment

The appellant alleges he was subjected to illegal pretrial punishment, in violation of Article 13, UCMJ, because he was required to wear a confinement jumpsuit and shackles when outside the confinement facility and was housed with post-trial prisoners.

The government responds that the conditions were reasonably related to keeping the appellant in custody.

We find an affirmative waiver of this issue. Before trial, the appellant complained about his treatment in confinement. In the PTA, in exchange for a limitation on the maximum punishment to be approved, the appellant agreed, inter alia, to "Waive any motions regarding a request for additional credit for violations of RCM 305 and for any additional credit for 'unusually harsh circumstances' under RCM 305(j)." The military judge specifically inquired about this term in the PTA, and the appellant indicated that he agreed to it voluntarily, after discussing it with his counsel. During the sentencing proceedings, the appellant raised the issue of his treatment during confinement, inviting the sentencing authority to consider the adverse impact on him of having to wear the distinctive uniform and shackles when he left the facility.

An appellant may affirmatively waive a claim of illegal pretrial punishment. *United States v. Southwick*, 53 M.J. 412, 416 (2000); *United States v. Huffman*, 40 M.J. 225, 227 (C.M.A. 1994). Here the record is abundantly clear that the appellant knowingly and voluntarily waived any claim of credit for any unusually harsh circumstances during pretrial confinement.

Even without a waiver, there is no indication the confinement facility intended to punish the appellant by requiring him to wear an identifiable uniform or wear shackles when outside the facility. The evidence presented to the pretrial confinement officer was that when the appellant was discovered in his dormitory room, he told his first sergeant that he hated the Air Force and would do anything to get out. The appellant also said, "What do I have to do to get discharged, kill someone?" and that there were "no limits" to what he would do to get out of the Air Force. During his interview with the AFOSI, the appellant acted in a physically threatening manner toward the agents, said he planned to leave the base after the interview, and again stated he would kill someone to get out of the service. When he was informed that he would be placed in pretrial confinement and was taken to his room to collect personal effects, a "skirmish" broke out, requiring the appellant to be subdued and handcuffed. During the appellant's pretrial confinement physical examination, he was belligerent and disrespectful to the hospital personnel. He was also disruptive during the first two days of his pretrial confinement, requiring him to be physically subdued once. As noted above, the appellant also engaged in violence and threatening behavior while in pretrial confinement, resulting in additional charges. Considering all these circumstances, we find the appellant presented such a risk of flight that the extraordinary security measures taken by the confinement facility were entirely reasonable.

Conclusion

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 (2000). Accordingly, the approved findings and sentence are

AFFIRMED.

OFFICIAL

HEATHER D. LABE
Clerk of Court

APPENDIX

Date	Event	Julian Date	Elapsed Days	Acct Days (Orig)	Acct Days (Add)
26 Jul 00	Appellant (App.) departs unit w/o leave	208	0	0	0
1 Aug 00	App. found sleeping in his dorm room; taken to AFOSI for questioning; App. confesses and consents to search	214	0	0	0
2 Aug 00	First sergeant orders App. into pretrial confinement (PTC) at 0525; Commander reviews PTC	215	0	0	0
3 Aug 00	PTC review hearing scheduled; PTCRO delays hearing until 7 Aug 00 due to unavailability of defense counsel	216	1	1	0
7 Aug 00	Pretrial confinement hearing; PTCRO finds continued confinement appropriate	220	5	5	0
30 Aug 00	AFOSI completes report of investigation (ROI) of Amn Gillmore and Amn Larson, witnesses against App.	243	28	28	0
31 Aug 00	AFOSI completes ROI of App. AFOSI completes ROI of Amn Winter Amn Garsnett, witnesses against App.	244	29	29	0
6 Sep 00	AFOSI completes ROI of Amn Ninedorf, witness against the App.	250	35	35	0
13 Sep 00	AFOSI completes ROI of Amn Dillon, witness against the App.	257	42	42	0
15 Sep 00	AFOSI completes ROI of Amn Collier, witness against the App.	259	44	44	0
22 Sep 00	81 TRW/JA mails copy of ROI to defense counsel	266	51	51	0
26 Sep 00	AFOSI completes ROI of Amn Caddy,	270	55	55	0

	witness against the App.				
27 Sep 00	AFOSI completes ROI of Amn Rowe, witness against the App.	271	56	56	0
28 Sep 00	AFOSI completes ROI of Amn Stevens, witness against the App.	272	57	57	0
2 Oct 00	Defense faxes request for mental capacity inquiry for App.	276	61	61	0
3 Oct 00	81 TRW/JA forwards request for mental capacity inquiry to SPCM/CA	277	62	62	0
8 Oct 00	App. assaults guard; solicits assault upon a guard; SF completes Incident Report	282	67	68	0
10 Oct 00	SPCM/CA orders inquiry into App.'s mental capacity; excludes period needed to conduct inquiry, and prepare, forward and review the results.	284	69	69	0
12 Oct 00	Trial US v. Hammond; Pursuant to PTA, AB Hamond agrees to testify against App.	286	71	69	0
17 Oct 00	Trial US v. Hernandez; Pursuant to PTA, AB Hernandez agrees to testify vs. App.	291	76	69	0
18 Oct 00	Trial US v. Dillon; Pursuant to PTA AB Dillon agrees to testify vs. App.	292	77	69	0
1 Nov 00	Mental capacity inquiry completed.	306	91	69	0
6 Nov 00	Trial US v. Ramos; Pursuant to PTA, AB Ramos agrees to testify vs. App.	311	96	69	0
8 Nov 00	81 MDOS/SGOH faxes mental capacity inquiry report to defense	313	98	69	0
9 Nov 00	81 MDOS/SGOH faxes mental capacity inquiry report to government	314	99	69	0
10 Nov 00	Government reviews mental capacity	315	100	70	0

	inquiry report				
14 Nov 00	Trial US v. Caddy; Pursuant to PTA, AB Caddy agrees to testify vs. App.	319	104	74	0
17 Nov 00	81 TRW/JA asks SPCM/CA to exclude time under RCM 707; copy to defense	322	107	77	0
20 Nov 00	Defense opposes exclusion of time over 75 days; demands speedy trial	325	110	80	0
21 Nov 00	SPCM/CA grants exclusion of time from 21 Nov 00 to 1 Feb 01; parties discuss PTA with waiver of Art 32	326	111	81	0
4 Dec 00	Gov't requests 15 Dec 00 docket date	339	124	81	0
5 Dec 00	Defense requests 15 Dec 00 docket date	340	125	81	0
6 Dec 00	Original Charges preferred; AFOSI begins investigation of extortion and sexual misconduct; interviews AB Gething	341	126	81	0
7 Dec 00	CCMJ confirms 15 Dec 00 trial date AFOSI interviews AB Brese re: misconduct in confinement	342	127	81	0
8 Dec 00	Defense submits offer for PTA, with conditional waiver of Art 32	343	128	81	0
11 Dec 00	2 AF/CC rejects defense offer for PTA	346	131	81	0
13 Dec 00	Art 32 - US v. AB Rowe	348	133	81	0
14 Dec 00	Trial US v. Amn Stevens; Per PTA, Amn Stevens agrees to testify against App. Trial US v. AB Gillmore; Per PTA, AB Gillmore agrees to testify against App.	349	134	81	0
15 Dec 00	81 TRW/JA submits additional justification for excluding time under RCM 707; SPCM/CA confirms exclusion; AFOSI	350	135	81	0

	takes statements from SrA Asbell and AB Caddy re: misconduct in confinement				
3 Jan 01	81 TRW/JA asks 2 AF/CC to grant testimonial immunity to Hernandez, Hammond and Stevens re: App. misconduct in confinement	003	154	81	0
10 Jan 01	Trial US v. Larsen; Per PTA, A1C Larsen agrees to testify vs. App.	010	161	81	0
11 Jan 01	2 AF/CC grants testimonial immunity to Hernandez, Hammond, and Stevens	010	161	81	0
16 Jan 01	AFOSI takes statement from AB Stevens re: misconduct in confinement	016	167	81	0
17 Jan 01	Parties discuss second PTA; AFOSI takes statement from AB Hernandez re: misconduct in confinement	017	168	81	0
22 Jan 01	Additional Charges preferred	022	173	81	0
24 Jan 01	Art 32 hearing held	024	175	82	2
2 Feb 01	AFOSI takes statement from AB Hammond re: misconduct in confinement	033	184	91	11
5 Feb 01	Art 32 ROI completed/assembled Trial US v. Rowe begins	036	187	94	14
8 Feb 01	Trial US v. Collier; Per PTA, Amn Collier agrees to testify vs. App.	039	190	97	17
10 Feb 01	Trial US v. Rowe completed	041	192	99	19
13 Feb 01	SPCM/CA forwards charges with recommendation for GCM	044	195	102	22
15 Feb 01	Defense submits second offer for PTA	046	197	104	24
16 Feb 01	2 AF/CC refers case to GCM; accused	047	198	105	25

	is served with charges; Gov't advises MJ gov't ready for trial on 22 Feb 01; CCMJ sets trial date for 1 Mar 01; excludes 22 Feb-1 Mar 01 under RCM 707				
20 Feb 01	2 AF/CC approves offer for PTA	051	202	109	29
22 Feb 01	Date Gov't ready for trial	053	204	111	31
1 Mar 01	Appellant arraigned	060	211	111	31