

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

No. ACM 24067

UNITED STATES

Appellee

v.

Joseph A. TURNER

Staff Sergeant (E-5), U.S. Air Force, *Appellant*

Appeal from the United States Air Force Trial Judiciary¹

Decided 26 August 2026²

Military Judge: Adam D. Bentz.

Sentence: Sentence adjudged 5 April 2024 by SpCM convened at Luke Air Force Base, Arizona. Sentence entered by military judge on 4 July 2024: Confinement for 5 months and a reprimand.

For Appellant: Major Trevor N. Ward, USAF (on brief and argued); Capt Paige F. Markley Denton, USAF; Megan P. Marinos, Esquire.

For Appellee: Major Heather R. Bezold, USAF (argued); Lieutenant Colonel Thomas J. Alford, USAF; Major Vanessa Bairos, USAF; Major Regina Henenlotter, USAF (on brief); Major Kate E. Lee, USAF; Major Jocelyn Q. Wright, USAF; Mary Ellen Payne, Esquire (on brief).

Before MORGAN, GRUEN, and MENDELSON, *Appellate Military Judges*.

Judge MENDELSON delivered the opinion of the court, in which Chief Judge MORGAN and Senior Judge GRUEN joined.

¹ Appellant appeals his conviction under Article 66(b)(1)(A), Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 866(b)(1)(A). *See Manual for Courts-Martial, United States* (2024 ed.).

² The court heard oral argument in this case on 29 July 2026.

This is an unpublished opinion and, as such, does not serve as precedent under AFCCA Rule of Practice and Procedure 30.3.

MENDELSON, Judge:

A special court-martial consisting of a military judge convicted Appellant, in accordance with his pleas, of one specification of failure to obey a lawful order, in violation of Article 92, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 892, and one specification of domestic violence, in violation of Article 128b, UCMJ, 10 U.S.C. § 928b.^{3,4} The military judge sentenced Appellant to confinement for 5 months and a reprimand. The convening authority took no action on the findings or sentence and provided the wording of the reprimand.

Appellant raises a single issue on appeal, which we restate as: whether Appellant's guilty plea was knowing and voluntary when the military judge did not ensure Appellant was advised as to the adverse impact on his ability to own or possess a firearm as a result of a domestic violence conviction. We also considered an additional issue, not raised by Appellant, but identified during this court's Article 66(d), UCMJ, 10 U.S.C. § 866(d), review: whether Appellant is entitled to relief for facially unreasonable appellate delay in accordance with *United States v. Moreno*, 63 M.J. 129 (C.A.A.F. 2006). We find no error that materially prejudiced Appellant's substantial rights, and we affirm the findings and sentence.

I. BACKGROUND

While stationed at Luke Air Force Base, Arizona, Appellant's commander issued a military protective order, ordering Appellant to remain at least 100 feet away from his spouse, BT, and her residence. Appellant violated the military protective order by going to BT's house to check the mailbox. While Appellant was at the mailbox, BT came out of the house and the two began to argue. During the argument, BT took Appellant's cell phone. Appellant grabbed BT's hands and tried to pry her fingers off the phone. He then slapped

³ Unless otherwise noted, references in this opinion to the UCMJ are to the *Manual for Courts-Martial, United States* (2019 ed.).

⁴ In accordance with a plea agreement, one other specification of failure to obey a lawful order, in violation of Article 92, UCMJ, and two specifications of wrongful use and possession of a controlled substance in violation of Article 112a, UCMJ, 10 U.S.C. § 912a, were withdrawn and dismissed with prejudice.

BT's forearm twice with enough force to leave a red mark on her arm and to cause Appellant's finger to become swollen.

As a result, Appellant was charged with violating the military protective order and committing an offense of domestic violence against his spouse. At trial, Appellant pleaded guilty to the offenses. Collateral consequences of Appellant's guilty plea were not discussed during the plea inquiry.

On appeal, Appellant now claims that he was unaware that his domestic violence conviction would bar him from possessing a firearm pursuant to the Lautenberg Amendment to the Gun Control Act of 1968,⁵ and that he "would never have pled guilty if [he] knew [he] would lose [his] right to own or possess firearms."⁶

II. DISCUSSION

A. Collateral Consequence

1. Law

"A military judge's decision to accept a guilty plea is reviewed for an abuse of discretion." *United States v. Inabinette*, 66 M.J. 320, 322 (C.A.A.F. 2008). An abuse of discretion occurs when there is "something in the record of trial, with regard to the factual basis or the law, that would raise a substantial question regarding the appellant's guilty plea." *Id.* An appellant bears the "burden to demonstrate a substantial basis in law and fact for questioning the plea." *United States v. Finch*, 73 M.J. 144, 148 (C.A.A.F. 2014) (quoting *United States v. Negron*, 60 M.J. 136, 141 (C.A.A.F. 2004)). This court reviews "questions of law arising from the guilty plea de novo." *Inabinette*, 66 M.J. at 322.

A "guilty plea is a grave and solemn act" which should be accepted "only with care and discernment." *Brady v. United States*, 397 U.S. 742, 748 (1970). A guilty plea is a "waiver of [an accused's] right to trial before a jury or a judge," and such "[w]aivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences." *Id.* (footnote omitted). Moreover,

⁵ The Lautenberg Amendment is codified at 18 U.S.C. § 1922(g)(9). It criminalizes possession of firearms or ammunition by those previously convicted of misdemeanor domestic violence offenses and has no military service member or law enforcement exception.

⁶ On 23 March 2026, Appellant moved to attach a declaration, unopposed, which this court granted. We consider Appellant's declaration here for purposes of our Article 66, UCMJ, review.

“it is axiomatic that the military justice system imposes even stricter standards on military judges with respect to guilty pleas than those imposed on federal civilian judges.” *United States v. Riley*, 72 M.J. 115, 120 (C.A.A.F. 2013) (cleaned up).

“A collateral consequence is ‘[a] penalty for committing a crime, in addition to the penalties included in the criminal sentence.’” *United States v. Miller*, 63 M.J. 452, 457 (C.A.A.F. 2006) (quoting *Black’s Law Dictionary* 278 (8th ed. 1999)). Historically, our superior court “has repeatedly held that collateral consequences of a court-martial conviction should not be the concern of the court-martial.” *United States v. Hall*, 46 M.J. 145, 146 (C.A.A.F. 1997) (citations omitted). Accordingly, when challenging the providence of a guilty plea on the basis of an unforeseen collateral consequence, an appellant must meet the “difficult task” of demonstrating that “the collateral consequences are major and the appellant’s misunderstanding of the consequences (a) results foreseeably and almost inexorably from the language of a pretrial agreement; (b) is induced by the trial judge’s comments during the providence inquiry; or (c) is made readily apparent to the judge, who nonetheless fails to correct that misunderstanding.” *Miller*, 63 M.J. at 457 (quoting *United States v. Bedania*, 12 M.J. 373, 376 (C.M.A. 1982)).

2. Analysis

Appellant challenges the providence of his guilty plea to the domestic violence offense on the basis that he was not advised that his conviction would bar him from possessing a firearm pursuant to the Lautenberg Amendment. Appellant urges that we extend the United States Court of Appeals for the Armed Forces’ (CAAF’s) holding in *Riley*, 72 M.J. at 121—that “in the context of a guilty plea inquiry, sex offender registration can no longer be deemed a collateral consequence of the plea”—to hold that the bar on firearms possession can no longer be deemed a collateral consequence of a guilty plea to a domestic violence offense. As a follow on, Appellant asks us to find the military judge abused his discretion in accepting Appellant’s guilty plea without advising Appellant of the firearms bar.

In the context of guilty pleas, military jurisprudence has carved out one exception to the general rule on collateral consequences in the case of sex offender registration. First, in *Miller*, the CAAF pronounced a prospective rule that “trial defense counsel should inform an accused prior to trial as to any charged offense listed in [Enclosure 27 of Department of Defense Instruction 1325.7]: Listing Of Offenses Requiring Sex Offender Processing.” 63 M.J. at 459. The CAAF explained:

In our view, the importance of this rule springs from the unique circumstances of the military justice system. More often than

not, an accused will be undergoing court-martial away from his or her state of domicile. Also, the court-martial and plea may occur without the assistance of counsel from the accused’s domicile state. Finally, every state now has its own version of Megan’s Law.^[7] These circumstances can contribute to an accused being uninitiated to the collateral consequence of mandatory registration requirement as a result of his court-martial conviction.

This rule will serve two distinct functions. First, it will promote a professional dialogue between an accused and trial defense counsel because it obligates trial defense counsel to address a legal issue about which an accused may be uninformed. Additionally, it will foster an accused’s proper consideration of this unique collateral circumstance that may affect the plea decisions as to any offense that would trigger a sex offender registration requirement.

Id.

After the CAAF’s opinion in *Miller*, the United States Supreme Court held that advice about deportation—a non-criminal consequence of a conviction—fell within the ambit of the Sixth Amendment right to counsel. *Padilla v. Kentucky*, 559 U.S. 356, 388 (2010). In reaching this holding, *Padilla* announced a “new rule,” meaning one that was not dictated by precedent. *Chaidez v. United States*, 568 U.S. 342, 347 (2013). The Supreme Court “relied on the special ‘nature of deportation’—the severity of the penalty and the ‘automatic’ way it follows from conviction—to show that ‘[t]he collateral versus direct distinction [was] ill-suited’” in this context. *Id.* at 355 (quoting *Padilla*, 559 U.S. at 365–366). In its reasoning, the Court recognized that deportation is “‘the equivalent of banishment or exile.’” *Id.* at 373 (quoting *Delgadillo v. Carmichael*, 332 U.S. 388, 390–391 (1947)). The Supreme Court later clarified that “in *Padilla* we did not eschew the direct-collateral divide across the board” and noted that sex offender registration is among the many “other effects of a conviction commonly viewed as collateral.” *Id.* at 355 n.5.

Next, in *Riley*, the CAAF relied upon *Padilla*, and expanded upon its prospective rule announced in *Miller*, to hold that “in the context of a guilty plea inquiry, sex offender registration consequences can no longer be deemed a collateral consequence of the plea.” 72 M.J. at 121. In reaching this holding, the CAAF agreed with the reasoning of a state appellate court, which analogized *Padilla* to the context of sex offender registration:

⁷ Public law 104-145 (enacted 17 May 1996); 34 U.S.C. § 20901 *et seq.*

Like the consequence of deportation, sex offender registration is not a criminal sanction, but it is a particularly severe penalty. In addition to the typical stigma that convicted criminals are subject to upon release from imprisonment, sexual offenders are subject to unique ramifications, including, for example, residency-reporting requirements and place of domicile restrictions. Moreover, sex offender registration is “intimately related to the criminal process.” The “automatic result” of sex offender registration for certain defendants makes it difficult to “divorce the penalty from the conviction”

Id. at 120–121 (quoting *People v. Fonville*, 804 N.W.2d 878, 894 (Mich. Ct. App. 2011)). Accordingly, the CAAF “conclude[d] that the military judge abused his discretion when he accepted [the appellant’s] guilty plea without questioning defense counsel to ensure [the appellant’s] knowledge of the sex offender registration consequences of her guilty plea” *Id.* at 122.

Appellant argues that the same reasoning the Supreme Court applied in *Padilla* and the CAAF applied in *Miller* and *Riley*, should be extended to find, for the first time, that a ban on possessing firearms should no longer be considered a collateral consequence, and that a military judge must ensure an accused has been informed about this consequence before accepting a guilty plea. In support of this argument, Appellant contends that, like sex offender registration, the firearms ban is lifelong, automatic, and a particularly severe penalty. Further, Appellant argues that the *Military Judges’ Benchbook*, Dept. of the Army Pamphlet 27-9 (Benchbook), includes a series of questions the military judge “may ask” to ensure the trial defense counsel advised the accused if the accused is pleading guilty to an offense that may criminalize firearms possession, but the military judge failed to do so in Appellant’s case.⁸

Since deciding *Riley*—which “altered [the CAAF’s] treatment of sex offender registration in the context of the providence of a guilty plea,” *United States v. Talkington*, 73 M.J. 212, 217 (C.A.A.F. 2014)—the CAAF and this court have rejected efforts to extend *Riley*. In *Talkington*, the CAAF held that, while *Riley* found sex offender registration to no longer be a collateral consequence in the context of a guilty plea, it did not change its status as a collateral consequence in the context of sentencing. 73 M.J. at 217. In *United States v.*

⁸ It is not clear which version of the Benchbook counsel for Appellant is referring to. As discussed *infra*, we note that the current 2025 version of the Benchbook does contain a suggested colloquy that a military judge “may” conduct. However, the 2020 version of the Benchbook, in effect at the time of Appellant’s court-martial, did not contain guidance or a suggested colloquy regarding the collateral consequence on an accused’s ability to possess a firearm.

Groomes, a panel of this court, in an unpublished opinion, addressed the same issue this case presents—whether *Riley* should be extended “to find a military judge’s failure to inquire into an accused’s knowledge of the ramifications of a ‘domestic violence’ conviction to be comparable to a failure to inquire into his knowledge of sex offender registration requirements.” No. ACM 38360, 2014 CCA LEXIS 752, at *17 (A.F. Ct. Crim. App. 2 Oct. 2014) (unpub. op.). In declining to do so, the panel reasoned:

Extending *Riley* to cover the scenario in this case would extend those requirements to every court-martial in which the accused is pleading guilty to an offense with a potential term of confinement over one year.^[9] Although the restriction on gun ownership by such individuals has been in place for years, no military appellate court has ever required an accused to be advised of those restrictions during his guilty plea inquiry.

Id. at *18–19. Likewise, another panel of this court in *United States v. Dugan*, recently classified a conviction’s effect on an accused’s ability to possess a firearm as a “collateral consequence” and applied the traditional collateral consequence test outlined in *Bedania*, 12 M.J. at 376. No. ACM 40320, 2023 CCA LEXIS 444, at *26–27 (A.F. Ct. Crim. App. 23 Oct. 2023) (unpub. op.).

We also decline Appellant’s invitation to treat a domestic violence conviction’s adverse effect on an accused’s ability to possess a firearm in the same fashion as sex offender registration. We recognize that there are myriad collateral consequences that may flow from a federal conviction, such as disenfranchisement, disqualification for jury service, loss of public benefits, professional licensing consequences, restrictions on holding office, and limitations on parental rights. While our superior court has specifically carved out the consequence of sex offender registration as a “consequence [that] can no longer be deemed a collateral consequence of [a guilty] plea,” *Riley*, 72 M.J. 121, no military court has expanded upon *Riley* to apply to other consequences of a conviction, and we decline to do so here.¹⁰

⁹ 18 U.S.C. 922(g)(1) prohibits any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year from possessing any firearm or ammunition.

¹⁰ We also note that Appellant does not cite to, nor are we aware of, any federal appellate court that has expanded upon *Padilla* to find that an accused must be advised of the adverse consequence a felony or domestic violence conviction has upon the ability to possess a firearm. We further note that, while Appellant contends he was unaware of the firearms bar, he does not claim that he received ineffective assistance of counsel

Accordingly, because the adverse effect of a domestic violence conviction on the ability to possess a firearm is a collateral consequence, we look to the test set forth in *Bedania*, 12 M.J. at 376, to determine whether there is a substantial basis to question Appellant’s guilty plea. Appellant does not contend that he was misled by the language of the plea agreement or the military judge’s comments during the providence inquiry, nor does he claim that his lack of awareness of the collateral consequence was made readily apparent to the judge.¹¹ See *id.* Nor do we find any suggestion in the record that Appellant was misadvised in any way about his ability to possess a firearm in the future. Accordingly, there is no substantial basis in the record to question the providence of Appellant’s guilty plea as it relates to this matter.

Finally, we are not persuaded by Appellant’s argument that the military judge failed to follow the Benchbook’s “straightforward guidance” on “questions to ask regarding firearms advice to the accused.” Contrary to Appellant’s argument, the 29 February 2020 version of the Benchbook, in effect at the time of Appellant’s court-martial, did not contain guidance or a suggested colloquy regarding the collateral consequence on an accused’s ability to possess a firearm. See *Military Judges’ Benchbook*, Dept. of the Army Pamphlet 27-9, ¶ 2-2-9 (29 Feb. 2020). We do note that the current 29 July 2025 version of the Benchbook—which was not in effect at the time of Appellant’s court-martial—does contain a suggested colloquy that a military judge may conduct. See *Military Judges’ Benchbook*, Dept. of the Army Pamphlet 27-9, ¶ 2-2-9 (29 Jul. 2025). As the CAAF noted in *Riley*, “the Benchbook is not binding as it is not a primary source of law, [rather] the Benchbook is intended to ensure compliance with existing law.” 72 M.J. at 122. The current version of the Benchbook accurately reflects existing law by providing that a military judge “may ask”—rather than mandating that a military judge “must ask”—about whether the accused received advice on the adverse impact a guilty plea may have on the ability to possess a firearm. See Benchbook, ¶ 2-2-9 (29 Jul. 2025) (providing the military judge “may ask” questions concerning the collateral consequence of firearms possession, while the military judge “must ask” questions concerning sex offender registration). Here—where the record does not reflect that

due to his defense counsel’s failure to advise him. Cf. *United States v. Askins*, __ M.J. __, Nos. 26-0002, 26-0014, 2026 CAAF LEXIS 670, at *11, n.4 (C.A.A.F. 11 Aug. 2026) (noting that if the appellant believed his defense counsel were deficient for failing to properly advise him “we would expect him to pursue an ineffective assistance of counsel claim,” in which case “the [Court of Criminal Appeals] likely would have ordered affidavits” to shed light on the issue).

¹¹ At oral argument, Appellant’s counsel conceded that Appellant’s claim of an improvident plea fails under the *Bedania* test. Oral Argument at 52:15–45, *Turner* (No. ACM 24067), <https://afcca.law.af.mil/audio.html>.

Appellant was misled or that the military judge should have been aware of Appellant’s lack of awareness—the military judge did not abuse his discretion in deciding not to conduct an inquiry into the collateral consequence.

B. Appellate Delay

1. Additional Background

The military judge sentenced Appellant on 5 April 2024 and signed the entry of judgment on 4 July 2024. The case was docketed with this court on 4 November 2024, and the court received the record of trial on 6 November 2024. Thereafter, Appellant requested and was granted 15 enlargements of time before filing his assignment of error brief on 23 March 2026. The Government did not request any enlargements of time and filed its answer brief on 22 April 2026. Appellant filed a reply to the Government’s answer on 29 April 2026.

2. Law

“[C]onvicted servicemembers have a due process right to timely review and appeal of courts-martial convictions.” *United States v. Moreno*, 63 M.J. 129, 135 (C.A.A.F. 2006) (citations omitted). In *Moreno*, the CAAF established a presumption of facially unreasonable delay “where appellate review is not completed and a decision is not rendered within eighteen months of docketing the case before the [Courts of Criminal Appeals].” 63 M.J. at 142.

Where there is a facially unreasonable delay, we examine the four factors set forth in *Barker v. Wingo*, 407 U.S. 514, 530 (1972): “(1) the length of the delay; (2) the reasons for the delay; (3) the appellant’s assertion of the right to timely review and appeal; and (4) prejudice [to the appellant].” *Moreno*, 63 M.J. at 135 (citations omitted). The CAAF identified three types of cognizable prejudice for purposes of the right to timely post-trial review: (1) oppressive incarceration; (2) “particularized anxiety or concern that is distinguishable from the normal anxiety experienced by prisoners awaiting an appellate decision;” and (3) impairment of the appellant’s grounds for appeal or ability to present a defense at a rehearing. *Id.* at 138–40 (citations omitted). Where there is no qualifying prejudice from the delay, there is no due process violation unless the delay is so egregious as to “adversely affect the public’s perception of the fairness and integrity of the military justice system.” *United States v. Toohey*, 63 M.J. 353, 362 (C.A.A.F. 2006).

3. Analysis

Over 18 months have elapsed since Appellant’s record of trial was originally docketed with the court. Therefore, under *Moreno*, there is a facially unreasonable delay. Accordingly, we have considered the *Barker* factors. Under the circumstances of this case, we find no violation of Appellant’s due process rights. We note that the 18-month threshold has been exceeded by close to four months. However, Appellant’s 15 requests for enlargements of time account for 442 days of delay, and Appellant did not assert his right to timely review and appeal.¹² Moreover, Appellant has suffered no prejudice—he was not confined, we discern no particularized anxiety or concern, and his grounds for appeal were not impaired by the delay. Finally, we find the delay has not been so egregious as to adversely affect the perception of the military justice system, *see Toohey*, 63 M.J. at 362, nor do we find any relief warranted in the absence of a due process violation under Article 66(d)(2), UCMJ.

III. CONCLUSION

The findings as entered are correct in law. Article 66(d)(1), UCMJ, 10 U.S.C. § 866(d)(1) (2024 *MCM*). In addition, the sentence as entered is correct in law and fact, and no error prejudicial to the substantial rights of the appellant occurred. Articles 59(a) and 66(d), UCMJ, 10 U.S.C. §§ 859(a), 866(d). Accordingly, the findings and sentence are **AFFIRMED**.



FOR THE COURT

Carol K. Joyce

CAROL K. JOYCE
Clerk of the Court

¹² In his motion for oral argument, Appellant “consent[ed] to any delay that oral argument may incur and disclaim[ed] any issues related to the post-trial delay caused by his request.”