

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES**

UNITED STATES

) **APPELLANT'S MOTION FOR
A DECISION BY THE COURT**

v.

Crim. App. No. 9600363

MICHAEL G. NEW
XXX-XX-XXXX
United States Army,
Appellant

USCA Dkt. No. 99-0640/AR

**TO THE JUDGES OF THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES**

COMES NOW the undersigned civilian appellate defense counsel, pursuant to Rule 30 of this Court's Rules Of Practice and procedure, and moves this Court to render its decision in the above - captioned case or, in the alternative, to issue an appropriate communication to the parties concerning the status of the appeal and the reasons for the decisions delay.

The following matters are set forth in support of this motion:

- 1 On January 24, 1996, five years and four months ago, the Appellant was convicted by a special court-martial and sentenced to a Bad Conduct discharge for violating Article 92, Uniform Code of Military Justice by refusing to don a United Nations uniform.
- 2 On July 2, 1996, this case was received by the United States Army Court of Criminal Appeals for review pursuant to Article 66, uniform Code of Military Justice.
- 3 On April 28, 1999, over two years and nine months after the Army Court received this case, the Army Court tendered its decision affirming the Appellants conviction and sentences.
- 4 On October 13, 1999, this court granted the Appellant's petition for Review.
- 5 On February 4, 2000, this Court heard oral arguments.
- 6 As of the date of this motion, this Court has not rendered its decision even though the term of court in which this Court heard oral arguments ended on September 30, 2000.
- 7 It is in the interests of justice and the appearance of justice for this Honorable Court to reneer its decision at this time. "If the new appellate sturcture has failed at all, it is almost certainly in its duty to speedily resolve its cases. In a jurisdiction in which rapidity of one disposition is especially desirable, the military appellate courts have been particularly tardy in their processing time." 2 Francis A. Gilligan & Fredric Z.Laderer, Court - Martial Procedure § 25 - 11.00 (2d Ed. 1999).
- 8 It is in the best interests of both the Appellant and the Armed Forces for this Honorable Court to render its decision at this time. "One could argue that it is only a speedy trial that is essential in order to return personnel to duty as soon as possible. See, e.g., U.C.M.J. art. 10. However, speedy appeal is desirable as well, not only to protect an erroneously convicted accused, but also to permit the earliest return to productive duty of a properly convicted accused." See Supra note 22.

WHEREFORE, the undersigned civilian appellate, defense counsel, respectfully requests that the instant motion be granted.

HENRY L. HAMILTON
Civilian Appellate Defense Counsel
Ratchford & Hamilton, LLP
2001 Laurel Street
Columbia, South Carolina 29201
(803) 779-0700 (Telephone)