

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

<b>UNITED STATES,</b>	)	<b>ACM 36785</b>
<b>Appellee</b>	)	
	)	
<b>v.</b>	)	
	)	<b>ORDER</b>
<b>Senior Airman (E-4)</b>	)	
<b>ANDREW P. WITT,</b>	)	
<b>USAF,</b>	)	
<b>Appellant</b>	)	<i>En Banc</i>

On 7 October 2008, counsel for the appellant submitted a Motion to Compel the Government to Produce a funding request for expert assistance that would ostensible assist the Government in litigating the appellant's Petition for a New Trial.

On 14 October 2008, counsel for the United States, citing our superior court's holding in *United States v. Campbell*, 57 M.J. 134 (C.A.A.F. 2002), advised this Court that the United States opposes the appellant's motion.

On 15 October 2008, counsel for the appellant, citing the Government's reliance of the funding request in reply to the appellant's motions, asserts the appellant has met the test enunciated in *United States v. Campbell*.

The *Campbell* court established a four-part test for determining whether an appellant has met his threshold burden of demonstrating that some measure of appellate inquiry is warranted. *United States v. Campbell*, 57 M.J. at 138. While the appellant has made a colorable showing that the funding request exists and has shown that the funding request was not previously discoverable with due diligence, he has failed to sufficiently show the relevance of the funding request to any asserted claim or defense and has failed to show that a reasonable probability exists that his court-martial result would have been different with the disclosure of the funding request. In short, the appellant has failed to meet his threshold burden of demonstrating that some measure of appellate inquiry is warranted.

Accordingly, it is by the Court on this 21st day of April, 2010,

**ORDERED:**

The appellant's Motion to Compel the Government to Produce the aforementioned funding request is hereby **DENIED**.

FOR THE COURT

OFFICIAL



A handwritten signature in blue ink, appearing to read "S. Lucas", is written over a horizontal line.

STEVEN LUCAS, YA-02, DAF  
Clerk of the Court