

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

UNITED STATES)	No. ACM S32762
<i>Appellee</i>)	
)	
v.)	
)	ORDER
Damien M. WELLS)	
Senior Airman (E-4))	
U.S. Air Force)	
<i>Appellant</i>)	Panel 2

On 18 December 2023, this court issued a show cause order, directing the Government to show good cause as to why this court should not remand the record for correction or take corrective action due to apparent irregularities in the post-trial processing documentation, including the convening authority’s decisions, the entry of judgment (EOJ), and the Statement of Trial Results (STR).

On 10 January 2024, the Government filed an answer to the court’s show cause order, stating this court should remand the record for correction. The Government proposed that to correct the errors described in our order, the base legal office should “generate a new, corrected (1) unexpurgated STR; (2) expurgated STR; (3) unexpurgated EOJ; and (4) expurgated EOJ.” Additionally, the Government proposed detailed corrections to these items:

- The date of each new document should be updated.
- **The STRs:**
 - Both the expurgated and unexpurgated STR should say “corrected copy – destroy all others”
 - Any corrections to the expurgated and unexpurgated STR should be made in accordance with DAFI 51-201, para. 21.12 (i.e. lining out incorrect information and adding and underlining correct information).
 - [T]he expurgated STR should (1) include three initials, instead of two initials, to replace the victim’s name, as the Charge Sheet includes the victim’s middle name; and (2) the distribution list should include an asterisk noting which agencies receive the unexpurgated version of the document and, below the distribution list, should add “*Recipients of unexpurgated STR,” per DAFI 51-202, para. 20.8.2.4.

- **The EOJs:**
 - Both the expurgated and unexpurgated EOJ should say “corrected copy – destroy all others”
 - Any corrections to the expurgated and unexpurgated EOJ should be made in accordance with DAFI 51-201, para. 21.12 (i.e. lining out incorrect information and adding and underlining correct information). Both the expurgated and unexpurgated EOJ should state that the convening authority denied Appellant’s requests for deferment and waiver on 5 September 2023.
 - For both the expurgated and unexpurgated EOJ, the first indorsement signed by the SJA should refer to EOJ, not to the STR.
 - The unexpurgated EOJ’s corrections should (1) below the “Reprimand” language and above the Military Judge’s signature, state, “This judgment reflects the result of the court-martial, as modified by any post-trial actions, rulings, or orders, if any, and is hereby entered into the record on [Date]”; (2) below the Military Judge’s signature, list as an attachment the applicable STR and its date; (3) update the distribution list to have correct recipients (that is, to add DAF/JAJI and DOD/AFPC and to remove DFAS/IN-JFLTBA) and include asterisks to note which agencies receive the unexpurgated version of the document (USARCF-E, HQ AFSFC/SFC, AFSFC/FCV, DAF/JAJM); and, below the distribution list, include the statement, “*Recipients of unexpurgated STR,” per DAFI 51-202, para. 20.8.2.4.
 - The expurgated EOJ should (1) include the victim’s three initials, since the Charge Sheet includes the victim’s middle name; and (2) remove from the indorsement page an extra “e” in the word “Judgment” in two places.

Id.

“A record of trial found to be incomplete or defective before or after certification may be corrected to make it accurate.” Rule for Courts-Martial (R.C.M.) 1112(d)(2). “A superior competent authority may return a record of trial to the military judge for correction under this rule.” *Id.* “If a case is remanded to a military judge, the military judge may modify the judgment consistent with the purposes of the remand.” R.C.M. 1111(c)(3). “[S]uperior competent authorities may also return the [record of trial] back to the Chief Trial Judge, [Air

Force Trial Judiciary], for correction of any defective record.” Air Force Instruction 51-201, *Administration of Military Justice*, ¶ 13.53.3.3.1 (18 Jan. 2019, as amended by AFGM 2020-3, 20 Nov. 2020).

Accordingly, it is by the court on this 18th day of January, 2024,

ORDERED:

The record of trial is **REMANDED** to the Chief Trial Judge, Air Force Trial Judiciary, for correction of the entry of judgment and other erroneous post-trial documentation. Article 66(f)(3), UCMJ, 10 U.S.C. § 866(f)(3); R.C.M. 1111(c)(3); R.C.M. 1112(d)(2). Thereafter, the record of trial will be returned to this court for completion of appellate review under Article 66, UCMJ.

On **12 February 2024**, counsel for the Government will inform the court in writing of the status of compliance with this order unless the record of trial has been returned to the court prior to that date.



FOR THE COURT

Carol K. Joyce

CAROL K. JOYCE
Clerk of the Court