United States Air Force Court of Criminal Appeals

UNITED STATES	)	**No. ACM 40690**
Appellee	)	
	)	
v.	)	
	)	**ORDER**
Giorgio A. SZABO	)	
Lieutenant Colonel (O-5)	)	
U.S. Air Force	)	
Appellant	)	**Panel 2**

On 21 November 2024, counsel for Appellant submitted a Motion for Enlargement of Time (First) requesting an additional 60 days to submit Appellant's assignments of error. The Government opposes the motion.

The court has considered Appellant's motion, the Government's opposition, this court's Rules of Practice and Procedure, and applicable case law.

Accordingly, it is by the court on this 22d day of November, 2024,

ORDERED:

Appellant's Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error not later than **28 January 2025.**

Counsel should not rely on any subsequent requests for enlargement of time being granted. Each request will be considered on its merits.

Appellant's counsel is advised that any subsequent motions for enlargement of time shall include, in addition to the matters required under this court's Rules of Practice and Procedure, statements as to: (1) whether Appellant was advised of Appellant's right to a timely appeal, (2) whether Appellant was provided an update of the status of counsel's progress on Appellant's case, (3) whether Appellant was advised of the request for an enlargement of time, and (4) whether Appellant agrees with the request for an enlargement of time. Counsel is not required to re-address item (1) in each subsequent motion for enlargement of time if counsel previously replied in the affirmative.

Counsel may request, and the court may order *sua sponte*, a status conference to facilitate timely processing of this appeal.

Appellant's counsel is further advised that any future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, will not be granted absent exceptional circumstances.

FOR THE COURT

SEAN J. SULLIVAN, Maj, USAF
Deputy Clerk of Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)))))))))	**MOTION FOR ENLARGEMENT OF TIME (FIRST)** Before Panel No. 2 No. ACM 40690 21 November 2024

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **28 January 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 52 days have elapsed. On the date requested, 120 days will have elapsed.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Goverment Trial and Appellate Operations Division on 21 November 2024.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

21 November 2024

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Lieutenant Colonel (O-5) GIORGIO A. SZABO, USAF, *Appellant.*	)))))))))	UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME ACM 40690 Panel No. 2

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

JENNY A. LIABENOW, Lt Col, USAF
Director of Operations
Government Trial and Appellate Operations Division

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 21 November 2024.

JENNY A. LIABENOW, Lt Col, USAF
Director of Operations
Government Trial and Appellate Operations Division

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)))))))))	**MOTION FOR ENLARGEMENT OF TIME (SECOND)** Before Panel No. 2 No. ACM 40690 21 January 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **27 February 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 113 days have elapsed. On the date requested, 150 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officers members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

[1] The remaining charges and specifications were withdrawn and dismissed with prejudice.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, of expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Goverment Trial and Appellate Operations Division on 21 January 2025.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

23 January 2025

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Lieutenant Colonel (O-5) GIORGIO A. SZABO, USAF, *Appellant.*	)))))))))	UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME ACM 40690 Panel No. 2

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

JENNY A. LIABENOW, Lt Col, USAF
Director of Operations
Government Trial and Appellate Operations Division

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 23 January 2025 .

JENNY A. LIABENOW, Lt Col, USAF
Director of Operations
Government Trial and Appellate Operations Division

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)))))))))	**MOTION FOR ENLARGEMENT OF TIME (THIRD)** Before Panel No. 2 No. ACM 40690 18 February 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **29 March 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 141 days have elapsed. On the date requested, 180 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officers members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

[1] The remaining charges and specifications were withdrawn and dismissed with prejudice.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, of expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

The ROT is 12 volume and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Goverment Trial and Appellate Operations Division on 18 February 2025.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

20 February 2025

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Lieutenant Colonel (O-5) GIORGIO A. SZABO, USAF, *Appellant.*	)))))))))	UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME ACM 40690 Panel No. 2

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

JENNY A. LIABENOW, Lt Col, USAF
Director of Operations
Government Trial and Appellate Operations Division

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 20 February 2025.

JENNY A. LIABENOW, Lt Col, USAF
Director of Operations
Government Trial and Appellate Operations Division

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,*	)	**MOTION FOR ENLARGEMENT OF TIME (FOURTH)**
v.	)	Before Panel No. 2
Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)	No. ACM 40690 17 March 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **28 April 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 168 days have elapsed. On the date requested, 210 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officers members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

[1] The remaining charges and specifications were withdrawn and dismissed with prejudice.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, of expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

The ROT is 12 volume and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined.

The undersigned counsel is currently assigned 24 cases; 20 cases are pending before this Court (17 cases are pending AOEs). To date, nine cases have priority over the present case.

1. *United States v. Cabrie*, No ACM 40615 – The ROT is 3 volumes and consists of 5 Prosecution Exhibits, 6 Defense Exhibits, and 12 Appellate Exhibits; the transcript is 138 pages. Appellant is not currently confined. Counsel has begun drafting the AOE.

2. *United States v. Capers*, No ACM 40641 – The electronic ROT is 1 volume and consists of 3 Prosecution Exhibits, 5 Defense Exhibits, 14 Appellate Exhibits, and 4 Court Exhibits; the transcript is 405 pages. Counsel has begun, but not completed, her review of the record of trial.

3. *United States v. Griffin*, No ACM 40641 – The ROT is 6 volumes and consists of 24 Prosecution Exhibits, 29 Defense Exhibits, 30 Appellate Exhibits, and 1 Court Exhibits; the transcript is 605 pages. Appellant is currently confined. Counsel has begun, but not completed, her review of the record of trial.

4. *United States v. Anderson*, No. ACM 40654 – The ROT is 12 volumes and consists of 15 Prosecution Exhibits, 14 Defense Exhibits, and 96 Appellate Exhibits; the transcript is 1229 pages. Appellant is currently confined. Although this case was docketed on 13 August 2024, undersigned counsel has prioritized this case to keep pace with the Appellant's civilian counsel.

5. *United States v. Hooker*, No. ACM 40646 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

6. *United States v. Roedel*, No. ACM 40662 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

7. *United States v. Coley*, No. ACM 40675 – The electronic record of trial is 1 volume and consists of 13 Prosecution Exhibits, 1 Defense Exhibit, and 17 Appellate Exhibits; the transcript is 124 pages. Appellant is currently confined.

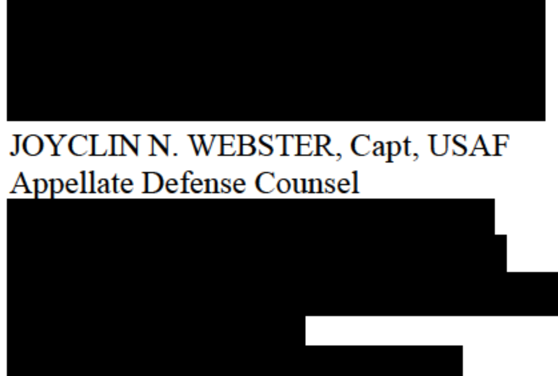
8. *United States v. Nesbitt*, No. ACM 40679 - The electronic ROT is 6 volumes and consists of 6 Prosecution Exhibits, 0 Defense Exhibits, 65 Appellate Exhibits, and 2 Court Exhibits; the transcript is 373 pages. Appellant is currently confined.

9. *United States v. Osorno*, No. ACM S32792 - The ROT is 2 volumes and consists of 3 Prosecution Exhibits, 4 Defense Exhibits, and 9 Appellate Exhibits; the transcript is 81 pages. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

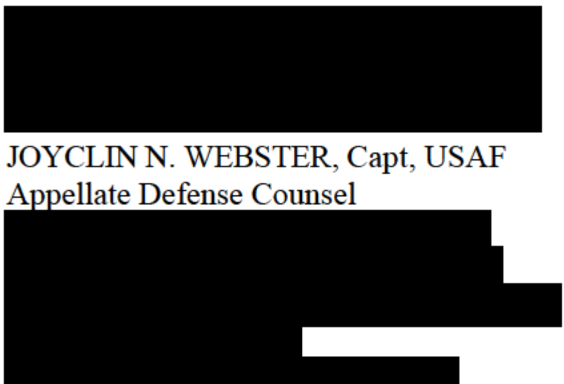


JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Goverment Trial and Appellate Operations Division on 17 March 2025.

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

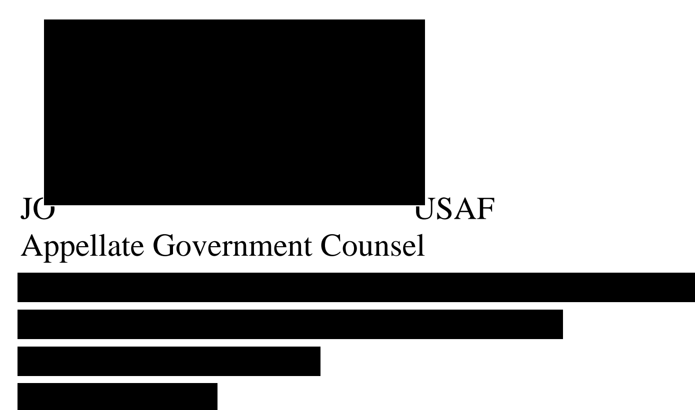
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
	)	OPPOSITION TO
Appellee,	)	APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.	)	
	)	Before Panel No. 2
Lieutenant Colonel (O-5)	)	
GIORGIO A. SZABO,	)	No. ACM 40690
United States Air Force.	)	
Appellant	)	19 March 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

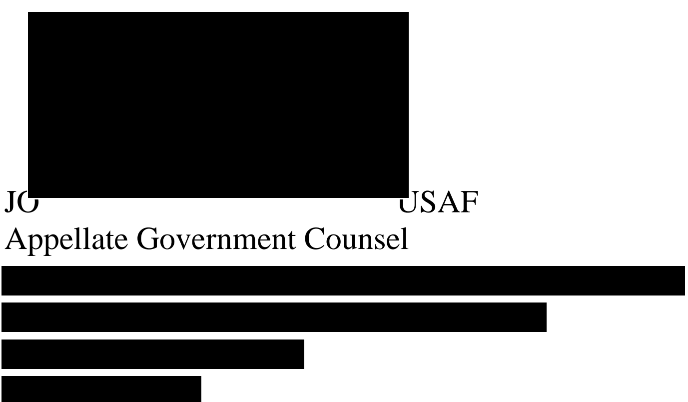
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



JO USAF
Appellate Government Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 19 March 2025.



JO USAF
Appellate Government Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)))))))))	**MOTION FOR ENLARGEMENT OF TIME (FIFTH)** Before Panel No. 2 No. ACM 40690 20 April 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **28 May 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 202 days have elapsed. On the date requested, 240 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officers members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

[1] The remaining charges and specifications were withdrawn and dismissed with prejudice.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, of expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

The ROT is 12 volume and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined.

The undersigned counsel is currently assigned 24 cases; 21 cases are pending before this Court (20 cases are pending AOEs). To date, nine cases have priority over the present case.

1. *United States v. Cabrie*, No ACM 40615 – The ROT is 3 volumes and consists of 5 Prosecution Exhibits, 6 Defense Exhibits, and 12 Appellate Exhibits; the transcript is 138 pages. Appellant is not currently confined. Counsel has begun drafting the AOE.

2. *United States v. Capers*, No ACM 40641 – The electronic ROT is 1 volume and consists of 3 Prosecution Exhibits, 5 Defense Exhibits, 14 Appellate Exhibits, and 4 Court Exhibits; the transcript is 405 pages. Counsel has begun, but not completed, her review of the record of trial.

3. *United States v. Griffin*, No ACM 40641 – The ROT is 6 volumes and consists of 24 Prosecution Exhibits, 29 Defense Exhibits, 30 Appellate Exhibits, and 1 Court Exhibits; the transcript is 605 pages. Appellant is currently confined. Counsel has begun, but not completed, her review of the record of trial.

4. *United States v. Anderson*, No. ACM 40654 – The ROT is 12 volumes and consists of 15 Prosecution Exhibits, 14 Defense Exhibits, and 96 Appellate Exhibits; the transcript is 1229 pages. Appellant is currently confined. Although this case was docketed on 13 August 2024, undersigned counsel has prioritized this case to keep pace with the Appellant's civilian counsel.

5. *United States v. Hooker*, No. ACM 40646 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

6. *United States v. Roedel*, No. ACM 40662 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

7. *United States v. Coley*, No. ACM 40675 – The electronic record of trial is 1 volume and consists of 13 Prosecution Exhibits, 1 Defense Exhibit, and 17 Appellate Exhibits; the transcript is 124 pages. Appellant is currently confined.

8. *United States v. Nesbitt*, No. ACM 40679 - The electronic ROT is 6 volumes and consists of 6 Prosecution Exhibits, 0 Defense Exhibits, 65 Appellate Exhibits, and 2 Court Exhibits; the transcript is 373 pages. Appellant is currently confined.

9. *United States v. Osorno*, No. ACM S32792 - The ROT is 2 volumes and consists of 3 Prosecution Exhibits, 4 Defense Exhibits, and 9 Appellate Exhibits; the transcript is 81 pages. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Goverment Trial and Appellate Operations Division on 20 April 2025.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
	)	OPPOSITION TO APPELLANT'S
Appellee,	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	Before Panel No. 2
Lieutenant Colonel (O-5)	)	
GIORGIO A. SZABO,	)	No. ACM 40690
United States Air Force,	)	
Appellant.	)	22 April 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

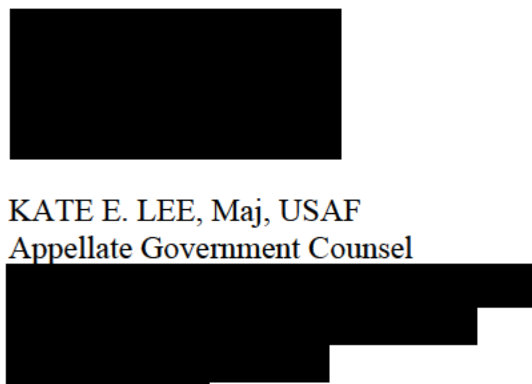
Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

KATE E. LEE, Maj, USAF
Appellate Government Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 22 April 2025.



KATE E. LEE, Maj, USAF
Appellate Government Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)))))))))	**MOTION FOR ENLARGEMENT OF TIME (SIXTH)** Before Panel No. 2 No. ACM 40690 15 May 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **27 June 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 227 days have elapsed. On the date requested, 270 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officers members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification

of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, of expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

The ROT is 12 volume and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined.

The undersigned counsel is currently assigned 25 cases; 21 cases are pending before this Court (20 cases are pending AOEs). To date, seven cases have priority over the present case.

1. *United States v. Capers*, No ACM 40641 – The electronic ROT is 1 volume and consists of 3 Prosecution Exhibits, 5 Defense Exhibits, 14 Appellate Exhibits, and 4 Court Exhibits; the transcript is 405 pages. Counsel has completed her review of the ROT and is finalizing the AOE.

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[1] The remaining charges and specifications were withdrawn and dismissed with prejudice. *Id*

2. *United States v. Griffin*, No ACM 40641 – The ROT is 6 volumes and consists of 24 Prosecution Exhibits, 29 Defense Exhibits, 30 Appellate Exhibits, and 1 Court Exhibits; the transcript is 605 pages. Appellant is currently confined. Counsel has begun, but not completed, her review of the record of trial.

3. *United States v. Hooker*, No. ACM 40646 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

4. *United States v. Roedel*, No. ACM 40662 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

5. *United States v. Coley*, No. ACM 40675 – The electronic record of trial is 1 volume and consists of 13 Prosecution Exhibits, 1 Defense Exhibit, and 17 Appellate Exhibits; the transcript is 124 pages. Appellant is currently confined.

6. *United States v. Nesbitt*, No. ACM 40679 - The electronic ROT is 6 volumes and consists of 6 Prosecution Exhibits, 0 Defense Exhibits, 65 Appellate Exhibits, and 2 Court Exhibits; the transcript is 373 pages. Appellant is currently confined.

7. *United States v. Osorno*, No. ACM S32792 - The ROT is 2 volumes and consists of 3 Prosecution Exhibits, 4 Defense Exhibits, and 9 Appellate Exhibits; the transcript is 81 pages. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress

on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 15 May 2025.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
	)	OPPOSITION TO APPELLANT'S
Appellee,	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	Before Panel No. 2
Lieutenant Colonel (O-5)	)	
GIORGIO A. SZABO,	)	No. ACM 40690
United States Air Force,	)	
Appellant.	)	19 May 2025

TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 19 May 2025.

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	**No. ACM 40690**
Appellee	)	
	)	
v.	)	
	)	**ORDER**
Giorgio A. SZABO	)	
Lieutenant Colonel (O-5)	)	
U.S. Air Force	)	
Appellant	)	**Panel 2**

On 16 June 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Seventh), requesting an additional 30 days to submit Appellant's assignments of error. The Government opposes the motion.

The court has considered Appellant's motion, the Government's opposition, prior filings in this case, case law, and this court's Rules of Practice and Procedure.

Accordingly, it is by the court on this 20th day of June, 2025,

ORDERED:

Appellant's Motion for Enlargement of Time (Seventh) is **GRANTED**. Appellant shall file any assignments of error not later than **27 July 2025**.

Further requests by Appellant for enlargements of time may necessitate a status conference.

FOR THE COURT

CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)))))))))	**MOTION FOR ENLARGEMENT OF TIME (SEVENTH)** Before Panel No. 2 No. ACM 40690 16 June 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **27 July 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 259 days have elapsed. On the date requested, 300 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officers members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

[1] The remaining charges and specifications were withdrawn and dismissed with prejudice. *Id*

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, of expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

The ROT is 12 volume and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined.

The undersigned counsel is currently assigned 27 cases; 18 cases are pending before this Court (20 cases are pending AOEs). To date, six cases have priority over the present case.

1. *United States v. Griffin*, No ACM 40641 – The ROT is 6 volumes and consists of 24 Prosecution Exhibits, 29 Defense Exhibits, 30 Appellate Exhibits, and 1 Court Exhibits; the transcript is 605 pages. Appellant is currently confined. Counsel has begun, but not completed, her review of the record of trial.

2. *United States v. Hooker*, No. ACM 40646 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

3. *United States v. Roedel*, No. ACM 40662 – The electronic ROT is 1 volume and consists of 1 Prosecution Exhibits, 0 Defense Exhibits, and 11 Appellate Exhibits; the transcript is 1242 pages. Appellant is currently confined.

4. *United States v. Coley*, No. ACM 40675 – The electronic record of trial is 1 volume and consists of 13 Prosecution Exhibits, 1 Defense Exhibit, and 17 Appellate Exhibits; the transcript is 124 pages. Appellant is currently confined.

5. *United States v. Nesbitt*, No. ACM 40679 - The electronic ROT is 6 volumes and consists of 6 Prosecution Exhibits, 0 Defense Exhibits, 65 Appellate Exhibits, and 2 Court Exhibits; the transcript is 373 pages. Appellant is currently confined.

6. *United States v. Osorno*, No. ACM S32792 - The ROT is 2 volumes and consists of 3 Prosecution Exhibits, 4 Defense Exhibits, and 9 Appellate Exhibits; the transcript is 81 pages. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 16 June 2025.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	))))))))))	UNITED STATES' OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME Before Panel No. 2 No. ACM 40690 18 June 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 300 days in length. Appellant's nearly a year long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two thirds of the 18-month standard for this Court to issue a decision, which only leaves about 8 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not completed review of the record of trial at this late stage of the appellate process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

JOCELYN Q. WRIGHT, Maj, USAF
Appellate Government Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 18 June 2025.

JOCELYN Q. WRIGHT, Maj, USAF
Appellate Government Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)))))))))	**MOTION FOR ENLARGEMENT OF TIME (EIGHTH)** Before Panel No. 2 No. ACM 40690 17 July 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **26 August 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 290 days have elapsed. On the date requested, 330 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officers members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification

of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, of expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

The ROT is 12 volume and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined.

The undersigned counsel is currently assigned 27 cases; 18 cases are pending before this Court (18 cases are pending AOEs). To date, one case before the Court of Appeals for the Armed Forces take priority over this case: *United States v. Menard*. The Court of Appeals for the Armed Forces has ordered a brief be filed no later than 29 July 25.

To date, four cases at this Court have priority over the present case:

[1] The remaining charges and specifications were withdrawn and dismissed with prejudice. *Id*

1. *United States v. Griffin*, No ACM 40641 – The ROT is 6 volumes and consists of 24 Prosecution Exhibits, 29 Defense Exhibits, 30 Appellate Exhibits, and 1 Court Exhibits; the transcript is 605 pages. Appellant is currently confined. Counsel is finalizing the AOE.

2. *United States v. Roedel*, No. ACM 40662 – The electronic ROT is 1 volume and consists of 1 Prosecution Exhibits, 0 Defense Exhibits, and 11 Appellate Exhibits; the transcript is 1242 pages. Appellant is currently confined.

3. *United States v. Coley*, No. ACM 40675 – The electronic record of trial is 1 volume and consists of 13 Prosecution Exhibits, 1 Defense Exhibit, and 17 Appellate Exhibits; the transcript is 124 pages. Appellant is currently confined.

4. *United States v. Nesbitt*, No. ACM 40679 - The electronic ROT is 6 volumes and consists of 6 Prosecution Exhibits, 0 Defense Exhibits, 65 Appellate Exhibits, and 2 Court Exhibits; the transcript is 373 pages. Appellant is currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 17 July 2025.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	))))))))))	UNITED STATES' OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME Before Panel No. 2 No. ACM 40690 21 July 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 330 days in length. Appellant's nearly a year long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two thirds of the 18-month standard for this Court to issue a decision, which only leaves about 7 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not completed review of the record of trial at this late stage of the appellate process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

<u>CERTIFICATE OF FILING AND SERVICE</u>

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on <u>21 July 2025</u>.

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	**No. ACM 40690**
Appellee	)	
	)	
v.	)	
	)	**ORDER**
Giorgio A. SZABO	)	
Lieutenant Colonel (O-5)	)	
U.S. Air Force	)	
Appellant	)	**Special Panel**

On 15 August 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Ninth), requesting an additional 30 days to submit Appellant's assignments of error. The Government opposes the motion.

The court has considered Appellant's motion, the Government's opposition, prior filings in this case, case law, and this court's Rules of Practice and Procedure.

Accordingly, it is by the court on this 22d day of August, 2025,

ORDERED:

Appellant's Motion for Enlargement of Time (Ninth) is **GRANTED**. Appellant shall file any assignments of error not later than **25 September 2025**.

It is further ordered:

Counsel for the parties will coordinate with the court a time to hold a status conference at the earliest opportunity.

FOR THE COURT

CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	**MOTION FOR ENLARGEMENT OF**
Appellee,	)	**TIME (NINE)**
	)	
v.	)	Before Special Panel
	)	
Lieutenant Colonel (O-5)	)	No. ACM 40690
GIORGIO A. SZABO,	)	
United States Air Force,	)	15 August 2025
Appellant.	)	

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **25 September 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 320 days have elapsed. On the date requested, 360 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officers members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification

of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, of expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

The ROT is 12 volume and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined. Counsel has not reviewed the record of trial in this case.

The undersigned counsel is currently assigned twenty-nine cases; twenty-one cases are pending before this Court (sixteen cases are pending AOEs). To date, one case before the Court of Appeals for the Armed Forces takes priority over this case: *United States v. Menard*. Counsel is finalizing the brief and will file with the court on 18 August 25.

To date, three cases before this Court have priority over the present case:

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[1] The remaining charges and specifications were withdrawn and dismissed with prejudice. *Id*

1. *United States v. Roedel*, No. ACM 40662 – The electronic ROT is 1 volume and consists of 1 Prosecution Exhibits, no Defense Exhibits, 11 Appellate Exhibits, and 1242 pages; the transcript is 65 pages. Appellant is currently confined. Counsel has reviewed the transcript in this case. The Government has responded to this Court's 1 August 25 show cause order acknowledging the need for this case to be remanded for correction.

2. *United States v. Coley*, No. ACM 40675 – The electronic ROT is 1 volume and consists of 13 Prosecution Exhibits, 1 Defense Exhibit, 17 Appellate Exhibits; and is 736 pages; the transcript is 124 pages. Appellant is currently confined. Counsel has not reviewed the record of trial in this case.

3. *United States v. Nesbitt*, No. ACM 40679 - The electronic ROT is 6 volumes and consists of 6 Prosecution Exhibits, no Defense Exhibits, 65 Appellate Exhibits, 2 Court Exhibits, and is 1272 pages; the transcript is 373 pages. Appellant is currently confined. Counsel has not reviewed the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

[redacted]

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 15 August 2025.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,*	)	UNITED STATES' OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME
v.	)	
	)	Before a Special Panel
Lieutenant Colonel (O-5) **GIORGIO A. SZABO** United States Air Force, *Appellant.*	)	No. ACM 40690 19 August 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 360 days in length. Appellant's near year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed more than two thirds of the 18-month standard for this Court to issue a decision, which only leaves about 6 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not started review of the record of trial at this late stage of the appellate process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 19 August 2025.

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,*	))	**MOTION FOR ENLARGEMENT OF TIME (TEN)**
v.	)))	Before Special Panel
Lieutenant Colonel (O-5) **GIORGIO A. SZABO,**	))	No. ACM 40690
United States Air Force, *Appellant.*	))	15 September 2025

TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **25 October 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 350 days have elapsed. On the date requested, 390 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officers members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification

of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, of expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

The ROT is 12 volume and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined. Counsel has not reviewed the record of trial in this case.

The undersigned counsel is currently assigned twenty-nine cases; twenty-two cases are pending before this Court (eighteen cases are pending AOEs). To date, two cases before this Court have priority over the present case.

1. *United States v. Coley*, No. ACM 40675 – The electronic ROT is 1 volume and consists of 13 Prosecution Exhibits, 1 Defense Exhibit, 17 Appellate Exhibits; and is 736 pages; the

[1] The remaining charges and specifications were withdrawn and dismissed with prejudice. *Id*

transcript is 124 pages. Appellant is currently confined. Counsel has reviewed the record of trial in this case and is working on the AOE.

2. *United States v. Nesbitt*, No. ACM 40679 - The electronic ROT is 6 volumes and consists of 6 Prosecution Exhibits, no Defense Exhibits, 65 Appellate Exhibits, 2 Court Exhibits, and is 1272 pages; the transcript is 373 pages. Appellant is currently confined. Counsel has not reviewed the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 15 September 2025.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

<table>
<tr><td>UNITED STATES,
Appellee,

v.

Lieutenant Colonel (O-5)
GIORGIO A. SZABO
United States Air Force,
Appellant.</td><td>)
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)
)
)
)
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)
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)</td><td>UNITED STATES'
OPPOSITION TO APPELLANT'S
MOTION FOR ENLARGEMENT
OF TIME

Before Special Panel

No. ACM 40690

16 September 2025</td></tr>
</table>

TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant more than a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 390 days in length. Appellant's over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed more than two thirds of the 18-month standard for this Court to issue a decision, which only leaves about 5 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not completed her review of the record of trial at this late stage of the appellate process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 16 September 2025.

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	**MOTION FOR ENLARGEMENT OF**
Appellee,	)	**TIME (ELEVEN)**
	)	
v.	)	Before Special Panel
	)	
Lieutenant Colonel (O-5)	)	No. ACM 40690
GIORGIO A. SZABO,	)	
United States Air Force,	)	17 October 2025
Appellant.	)	

TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **24 November 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 382 days have elapsed. On the date requested, 420 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officers members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification

of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, or expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

The ROT is 12 volume and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined. Counsel has not reviewed the record of trial in this case.

The undersigned counsel is currently assigned twenty-nine cases; twenty-two cases are pending before this Court (eighteen cases are pending AOEs). To date, one case[2] before this Court have priority over the present case: *United States v. Nesbitt*, No. ACM 40679 - The electronic

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[1] The remaining charges and specifications were withdrawn and dismissed with prejudice. *Id*

[2] Since the filing of Appellant's last motion for an enlargement of time, before the Court of Appeals for the Armed Forces counsel filed a reply brief in *United States v. Menard*, Dkt. No. 25-0173. Additionally, counsel has filed supplements and petitions in both *United States v. Tompkins*, Dkt. No. 25-0278 and *United States v. Capers*, Dkt. No. 25-0264. Before this court, counsel has filed a reply in *United States v. Anderson*, ACM 40752; and filed briefs in *United States v. Allen*, ACM 40809, and *United States v. Coley*, ACM 40675.

ROT is 6 volumes and consists of 6 Prosecution Exhibits, no Defense Exhibits, 65 Appellate Exhibits, 2 Court Exhibits, and is 1272 pages; the transcript is 373 pages. Appellant is currently confined. Counsel is in the process of reviewing the record of trial in this case. Counsel aims to file the AOE for this matter by 11 November 2025, after which attention will shift to the current case.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 17 October 2025.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES'
	)	OPPOSITION TO
Appellee,	)	APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.	)	
	)	Before Special Panel
Lieutenant Colonel (O-5)	)	
GIORGIO A. SZABO,	)	No. ACM 40690
United States Air Force.	)	
Appellant	)	20 October 2025

TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 420 days in length. Appellant's year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 4 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not completed review of the record of trial at this late stage of the appellate process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 20 October 2025.

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS

UNITED STATES	)	**No. ACM 40690**
Appellee	)	
	)	
v.	)	
	)	**ORDER**
Giorgio A. SZABO	)	
Lieutenant Colonel (O-5)	)	
U.S. Air Force	)	
Appellant	)	**Special Panel**

On 14 November 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Twelfth), requesting an additional 30 days to submit Appellant's assignments of error. The Government opposes the motion.

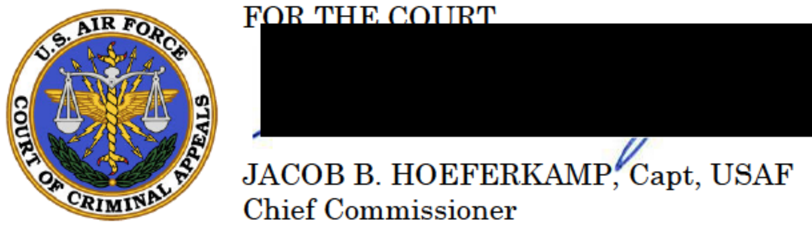
The court has considered Appellant's motion, the Government's opposition, prior filings in this case, case law, and this court's Rules of Practice and Procedure.

Accordingly, it is by the court on this 19th day of November, 2025,

ORDERED:

Appellant's Motion for Enlargement of Time (Twelfth) is **GRANTED IN PART**. Appellant shall file any assignments of error not later than **10 December 2025** unless an additional enlargement is granted by this court.

Counsel for the parties shall coordinate with the court to provide their availability for a status conference at the earliest available date on or after 1 December 2025.



FOR THE COURT

JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)))))))))	**MOTION FOR ENLARGEMENT OF TIME (TWELVE)** Before Special Panel No. ACM 40690 14 November 2025

TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **24 December 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 410 days have elapsed. On the date requested, 450 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officers members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification

of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, or expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

The ROT is 18 volumes and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined. Counsel has reviewed four volumes of the ROT in this case.

The undersigned counsel is currently assigned twenty cases; eleven cases are pending before this Court (nine cases are pending AOEs). To date, no case has priority over the present case.[2]

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[1] The remaining charges and specifications were withdrawn and dismissed with prejudice. *Id*

[2] Since the filing of Appellant's last motion for an enlargement of time, counsel has filed reply briefs in *United States v. Griffin, ACM 40642* and *United States v. Coley*, ACM 40675. Counsel also reviewed and filed a Merits Brief in *United States v. Nesbitt*, ACM 40679.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 14 November 2025.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

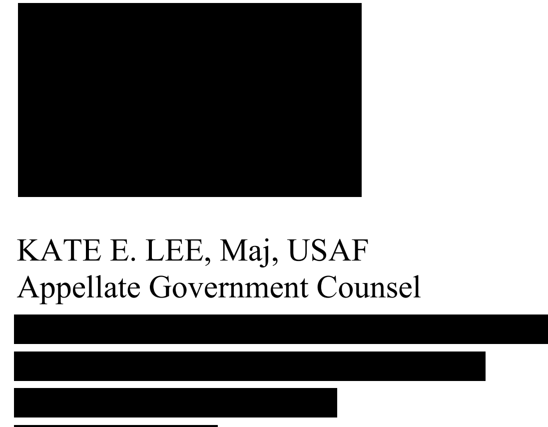
UNITED STATES, *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO**, United States Air Force, *Appellant.*	)))))))))))	UNITED STATES' OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME Before a Special Panel No. ACM 40690 17 November 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 450 days in length. Appellant's over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed more than two thirds of the 18 month standard for this Court to issue a decision, which only leaves about 3 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not completed review of the record at this late stage in the process.

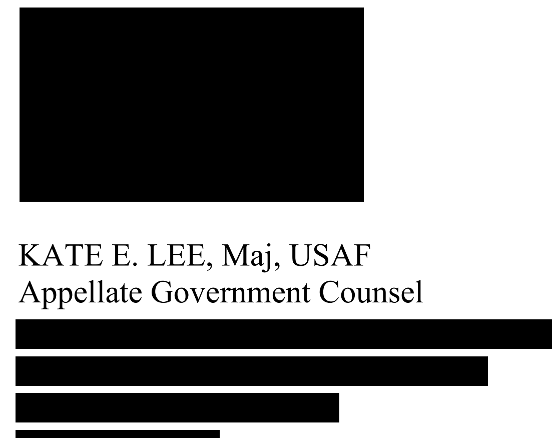
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



KATE E. LEE, Maj, USAF
Appellate Government Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 17 November 2025.



KATE E. LEE, Maj, USAF
Appellate Government Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)))))))))	**MOTION FOR ENLARGEMENT OF TIME (THIRTEEN)** Before Special Panel No. ACM 40690 3 December 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 14 days, which will end on **24 December 2025**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 429 days have elapsed. On the date requested, 450 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officers members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification

of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, or expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

The ROT is 18 volumes and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined. Counsel has reviewed fourteen volumes of ROT in this case.

The undersigned counsel is currently assigned twenty cases; eleven cases are pending before this Court (nine cases are pending AOEs). To date, no case has priority over the present case.[2]

---

[1] The remaining charges and specifications were withdrawn and dismissed with prejudice. *Id*

[2] Since the filing of Appellant's last motion for an enlargement of time, counsel has filed a reply brief in *United States v. Allen*, ACM 40809.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 3 December 2025.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO**, United States Air Force. *Appellant*	))))))))))	UNITED STATES' OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME Before a Special Panel No. ACM 40690 5 December 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 450 days in length. Appellant's over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 3 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not completed review of the record of trial at this late stage of the appellate process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 5 December 2025.

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	**MOTION FOR ENLARGEMENT OF**
Appellee,	)	**TIME TO FILE REPLY – OUT OF**
	)	**TIME**
v.	)	
	)	Before Special Panel
Lieutenant Colonel (O-5)	)	
GIORGIO A. SZABO,	)	No. ACM 40690
United States Air Force,	)	
Appellant.	)	29 January 2026

TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file a Reply to the Government's Answer to Appellant's Assignment of Errors (AOE). The Government filed its Answer on 26 January 2026. Appellant requests an enlargement for a period of 30 days, which will end on **4 March 2026**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 486 days have elapsed. On the date requested, 513 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officer members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification of damaging nonmilitary property in violation of Article 109.1 *Id*. The members

sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, or expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A.Szabo*, dated 29 May 2024.

The ROT is 18 volumes and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined.

In accordance with Rule 23.3(m)(6) of this Honorable Court's Rules of Practice and Procedure, counsel notes the following. The undersigned military counsel is currently assigned to eight cases. In one of those cases the Grant Brief is due to the Court of Appeals for the Armed Forces (CAAF) on 16 February 2026, a Petition and Supplement is due to CAAF in a second case on 1 March 2026, while Petitions of Certiorari are due to the Supreme Court of the United States in four of those cases on 2 February 2026, 17 March 2026, 21 April 2026, and 22 April 2026 respectively. This case will be undersigned counsel's highest priority after the 16 February Grant brief is filed.

Appellant's original, and still current, military appellate defense counsel is currently unavailable for medical reasons and her future availability remains to be determined. Appellant's original military appellate defense counsel remains assigned to this case, and has not moved to withdraw. Her unavailability will not delay the undersigned counsel's review or briefing of Appellant's case. Appellant's original military appellate defense counsel's caseload consists of twenty cases overall, six of which are pending initial briefing before this Court. Her briefing priorities that she determined before her unavailability are set out below:

1. *United States v. Lucas*, No. ACM 40702 – The electronic record of trial is five volumes and includes eleven prosecution exhibits, three defense exhibits, and sixteen appellate exhibits; the transcript is 187 pages. The appellant is not currently confined. Counsel has not yet reviewed the record of trial in this case.
2. *United States v. Kelly*, No. ACM 40710 – The electronic record of trial is one volume and includes six prosecution exhibits, eight defense exhibits, and twelve appellate exhibits; the transcript is 172 pages. The appellant is not currently confined. Counsel has not yet reviewed the record of trial in this case.
3. *United States v. Lumm*, No. ACM 40752 – The electronic record of trial is one volume and includes four prosecution exhibits, fourteen defense exhibits, seven appellate exhibits, and one court exhibit; the transcript is 111 pages. The appellant is not currently confined. Counsel has not yet reviewed the record of trial in this case.
4. *United States v. Gonzaga*, No. ACM 40744 – The electronic record of trial is one volume and includes twenty-four prosecution exhibits, one defense exhibit, thirty-six appellate exhibits, and five court exhibits; the transcript is 490 pages. The appellant is currently confined. Counsel has not yet reviewed the ROT in this case.

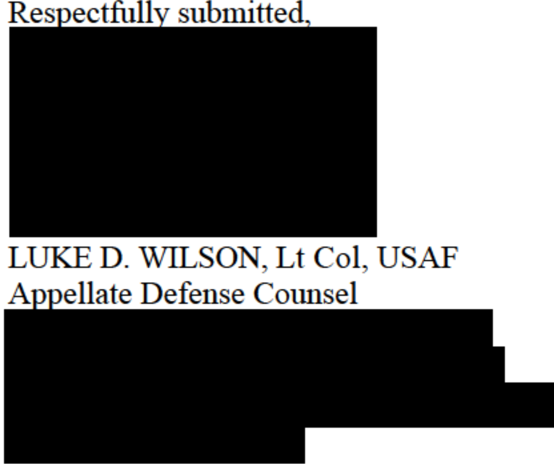
Through no fault of Appellant, undersigned counsel has been unable to complete review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's casefile, the AOE, the Government's Answer, and then research and draft a Reply.

When the Government filed its answer on Monday, 26 January 2026, undersigned counsel – a reservist – was not in a military status that would allow him to work on a military matters, and could not be assigned Appellant's case until those orders were finalized. Those orders were finalized today, 29 January 2026. Additionally, it is, unfortunately, not possible to file this motion "in time" as the timing for the motion to be "in time" to this Court is seven days before the due date (*see* AFCCA Rule 23.3(m)(1), and the timing for a Reply to this Court is also seven days. *See* AFCCA Rule 17(d). Thus, once the Government files an answer, any request for an extension of time to file a reply would necessarily be "out of time."

Appellant was previously advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,



LUKE D. WILSON, Lt Col, USAF
Appellate Defense Counsel

<u>**CERTIFICATE OF FILING AND SERVICE**</u>

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Goverment Trial and Appellate Operations Division on 29 Januar 2026.

Respectfully submitted,

LUKE D. WILSON, Lt Col, USAF
Appellate Defense Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)))))))))))	UNITED STATES' OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME – OUT OF TIME Before a Special Panel No. ACM 40690 2 February 2026

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

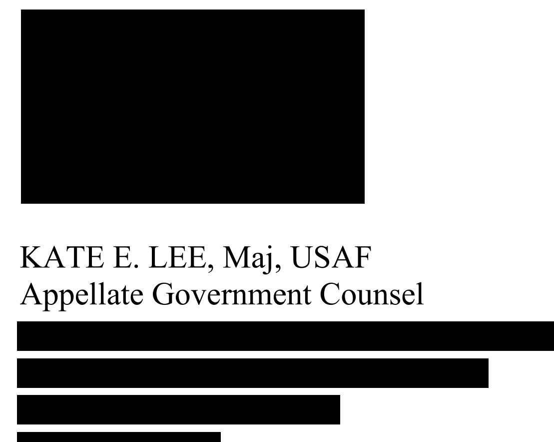
Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time, Out of Time, to file a Reply Brief in this case. To date, Appellant has requested and received 13 enlargements of time, thereby consuming 15 of the 18 months allotted to this Court to issue a decision. *See* United States v. Moreno, 63 M.J. 129, 142 (C.A.A.F. 2006). If Appellant's new delay request is granted, the briefing in this case would not be complete until 513 days into the Moreno clock, which would leave this Court with only 27 days—less than a month—to perform its statutory responsibilities. This practically ensures that this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

KATE E. LEE, Maj, USAF
Appellate Government Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 2 February 2026.



KATE E. LEE, Maj, USAF
Appellate Government Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	**MOTION FOR ENLARGEMENT OF TIME TO FILE REPLY – OUT OF TIME**
Appellee,	)	
	)	
v.	)	
	)	Before Special Panel
Lieutenant Colonel (O-5)	)	
GIORGIO A. SZABO,	)	No. ACM 40690
United States Air Force,	)	
Appellant.	)	29 January 2026

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file a Reply to the Government's Answer to Appellant's Assignment of Errors (AOE). The Government filed its Answer on 26 January 2026. Appellant requests an enlargement for a period of 30 days, which will end on **25 February 2026**. The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 486 days have elapsed. On the date requested, 513 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officer members sitting as a general court-martial at Joint Base Andrews Naval Air Facility, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification of damaging nonmilitary property in violation of Article 109.1 *Id*. The members

sentenced the Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

In accordance with Appellant's request, the Convening Authority deferred the Appellant's automatic forfeitures starting 14 days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release form confinement, or expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of the Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A.Szabo*, dated 29 May 2024.

The ROT is 18 volumes and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined.

In accordance with Rule 23.3(m)(6) of this Honorable Court's Rules of Practice and Procedure, counsel notes the following. The undersigned military counsel is currently assigned to eight cases. In one of those cases the Grant Brief is due to the Court of Appeals for the Armed Forces (CAAF) on 16 February 2026, a Petition and Supplement is due to CAAF in a second case on 1 March 2026, while Petitions of Certiorari are due to the Supreme Court of the United States in four of those cases on 2 February 2026, 17 March 2026, 21 April 2026, and 22 April 2026 respectively. This case will be undersigned counsel's highest priority after the 16 February Grant brief is filed.

Appellant's original, and still current, military appellate defense counsel is currently unavailable for medical reasons and her future availability remains to be determined. Appellant's original military appellate defense counsel remains assigned to this case, and has not moved to withdraw. Her unavailability will not delay the undersigned counsel's review or briefing of Appellant's case. Appellant's original military appellate defense counsel's caseload consists of twenty cases overall, six of which are pending initial briefing before this Court. Her briefing priorities that she determined before her unavailability are set out below:

1. *United States v. Lucas*, No. ACM 40702 – The electronic record of trial is five volumes and includes eleven prosecution exhibits, three defense exhibits, and sixteen appellate exhibits; the transcript is 187 pages. The appellant is not currently confined. Counsel has not yet reviewed the record of trial in this case.
2. *United States v. Kelly*, No. ACM 40710 – The electronic record of trial is one volume and includes six prosecution exhibits, eight defense exhibits, and twelve appellate exhibits; the transcript is 172 pages. The appellant is not currently confined. Counsel has not yet reviewed the record of trial in this case.
3. *United States v. Lumm*, No. ACM 40752 – The electronic record of trial is one volume and includes four prosecution exhibits, fourteen defense exhibits, seven appellate exhibits, and one court exhibit; the transcript is 111 pages. The appellant is not currently confined. Counsel has not yet reviewed the record of trial in this case.
4. *United States v. Gonzaga*, No. ACM 40744 – The electronic record of trial is one volume and includes twenty-four prosecution exhibits, one defense exhibit, thirty-six appellate exhibits, and five court exhibits; the transcript is 490 pages. The appellant is currently confined. Counsel has not yet reviewed the ROT in this case.

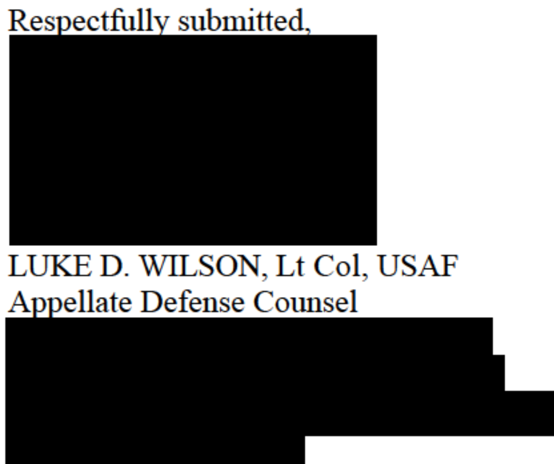
Through no fault of Appellant, undersigned counsel has been unable to complete review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's casefile, the AOE, the Government's Answer, and then research and draft a Reply.

When the Government filed its answer on Monday, 26 January 2026, undersigned counsel – a reservist – was not in a military status that would allow him to work on a military matters, and could not be assigned Appellant's case until those orders were finalized. Those orders were finalized today, 29 January 2026. Additionally, it is, unfortunately, not possible to file this motion "in time" as the timing for the motion to be "in time" to this Court is seven days before the due date (*see* AFCCA Rule 23.3(m)(1), and the timing for a Reply to this Court is also seven days. *See* AFCCA Rule 17(d). Thus, once the Government files an answer, any request for an extension of time to file a reply would necessarily be "out of time."

Appellant was previously advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,



LUKE D. WILSON, Lt Col, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Goverment Trial and Appellate Operations Division on 29 Januar 2026.

Respectfully submitted,

LUKE D. WILSON, Lt Col, USAF
Appellate Defense Counsel

UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS

UNITED STATES	)	**No. ACM 40690**
Appellee	)	
	)	
v.	)	
	)	**ORDER**
Giorgio A. SZABO	)	
Lieutenant Colonel (O-5)	)	
U.S. Air Force	)	
Appellant	)	**Special Panel**

On 19 December 2025, counsel for Appellant submitted a Motion to Examine Sealed Materials, requesting to be allowed to examine Appellate Exhibits V–VII, LXII, LXVI–LXXI, LXXXIX–XCV, and CXII–CXIII; the audio recordings of the closed sessions of the court-martial proceedings; the sealed portions of the transcript of the proceedings; and Pretrial Hearing Officer (PHO) Exhibits 5, 6, 17, 18, 22, and 30, which were reviewed by trial counsel and trial defense counsel at trial.

The Government does not oppose the motion so long as appellate government counsel "can also review the sealed portions of the record as necessary to respond to any assignment of error that references the sealed materials."

The court finds good cause to grant the motion. *See* Rule for Courts-Martial 1113(b)(3)(B)(i), *Manual for Courts-Martial, United States* (2024 ed.).

Accordingly, it is by the court on this 23d day of December, 2025,

ORDERED:

Appellant's Motion to Examine Sealed Material dated 7 November 2025 is **GRANTED**. Appellate defense counsel and appellate government counsel may review **Appellate Exhibits V–VII, LXII, LXVI–LXXI, LXXXIX–XCV, and CXII–CXIII**; **the audio recordings of the closed sessions of the court-martial proceedings; the sealed portions of the transcript of the proceedings**; and **PHO Exhibits 5, 6, 17, 18, 22, and 30**, subject to the following conditions:

To review the sealed materials, counsel will coordinate with the court.

No counsel granted access to the materials may photocopy, photograph, record, reproduce, disclose, or make available the content to any other individual without the court's prior written authorization.

FOR THE COURT

CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Lieutenant Colonel (O-5), **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	))))))))))	**MOTION TO EXAMINE SEALED MATERIALS** Special Panel No. ACM 40690 19 December 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule for Courts-Martial (R.C.M.) 1113(b)(3)(B) and Rules 3.1 and 23.3(f)(1) of this Court's Rules of Practice and Procedure, undersigned counsel hereby moves this Court to permit appellate counsel for the Appellant to examine the following materials sealed by the military judge:

1. Appellate Exhibits V-VII, LXII, LXVI – LXXI, LXXXIX-XCV, CXII-CXIII: Mil. R. Evid 412 materials.
2. Audio recording of closed sessions.
3. Sealed transcript pages of closed sessions.

Counsel also requests to examine the materials sealed by the Preliminary Hearing Officer: PHO Exhibits 5, 6, 17, 18, 22, and 30.

In accordance with R.C.M. 1113(b)(3)(B)(i), which requires a colorable showing that examination of these matters is reasonably necessary to appellate counsels' responsibilities, undersigned counsel asserts that review of the referenced exhibits is necessary to conduct a complete review of the record of trial and be able to advocate competently on behalf of Appellant.

Moreover, a review of the entire record of trial is necessary because this Court is empowered by Article 66, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 866, to grant relief based on a review and analysis of "the entire record." To determine whether the record of trial yields grounds for this Court to grant relief under Article 66, UCMJ, 10 U.S.C. § 866, appellate defense counsel must, therefore, examine "the entire record."

> Although Courts of Criminal Appeals have a broad mandate to review the record unconstrained by an appellant's assignments of error, that broad mandate does not reduce the importance of adequate representation. As we said in *United States v. Ortiz*, 24 M.J. 323, 325 (C.M.A. 1987), independent review is not the same as competent appellate representation.

United States v. May, 47 M.J. 478, 481 (C.A.A.F. 1998).

At trial, the military judge, trial counsel, and defense counsel reviewed items 1 – 3 of the listed materials. At the preliminary hearing, the preliminary hearing officer, trial counsel, and defense counsel reviewed the listed PHO exhibits. The sealed materials here must be reviewed for counsel to provide "competent appellate representation." *Id*. Viewing these exhibits, transcript pages, and corresponding audio is reasonably necessary to determine whether Appellant is entitled to relief due to errors concerning the substance during any portion of the proceedings—before, during, or after trial. Therefore, undersigned counsel's examination of the sealed materials is reasonably necessary to fulfill her responsibilities in this case as counsel cannot perform her duty of representation under Article 70, UCMJ, 10 U.S.C. § 870, or fulfill her duty to provide effective assistance of counsel without first reviewing the complete record of trial.

WHEREFORE, Appellant respectfully requests this Court grant this motion.

Respectfully Submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 19 December 2025.

Respectfully Submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

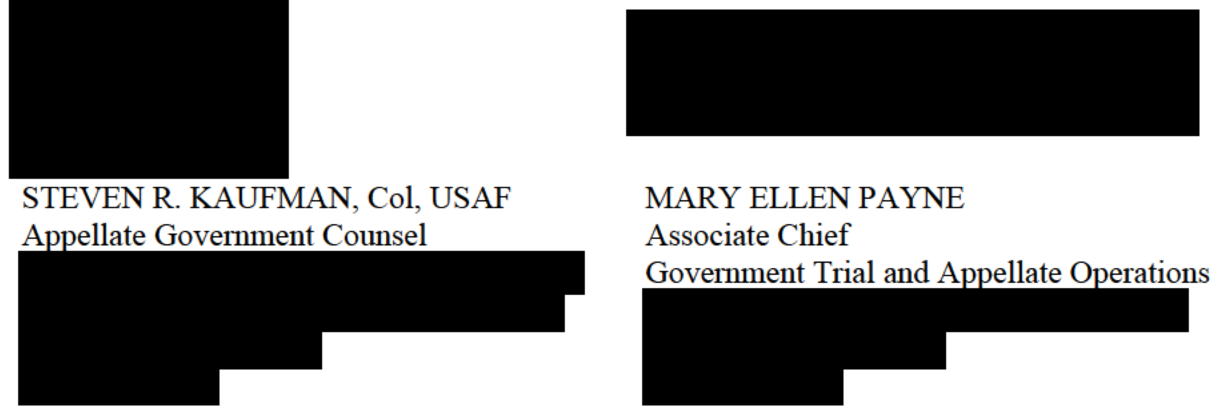
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** USAF, *Appellant.*	))))))))))	UNITED STATES' RESPONSE TO APPELLANT'S MOTION TO EXAMINE SEALED MATERIALS Special Panel ACM 40690 19 December 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States submits this Response to Appellant's Motion to Examine Sealed Materials. The United States does not object to Appellant's counsel reviewing the appellate exhibits, audio recordings, transcript pages, and preliminary hearing officer exhibits, so long as the United States can also review the sealed portions of the record as necessary to respond to any assignment of error that references the sealed materials. The United States respectfully requests that any order issued by this Court also allow counsel for the United States to view the sealed materials.

WHEREFORE, the United States respectfully responds to Appellant's motion.



STEVEN R. KAUFMAN, Col, USAF
Appellate Government Counsel

MARY ELLEN PAYNE
Associate Chief
Government Trial and Appellate Operations

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division (Capt Joyclin N. Webster) on 19 December 2025.

STEVEN R. KAUFMAN, Col, USAF
Appellate Government Counsel

UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS

UNITED STATES	)	**No. ACM 40690**
Appellee	)	
	)	
v.	)	
	)	**NOTICE OF**
Giorgio A. SZABO	)	**PANEL CHANGE**
Lieutenant Colonel (O-5)	)	
U.S. Air Force	)	
Appellant	)	

It is by the court on this 14th day of August, 2025,

ORDERED:

The record of trial in the above styled matter is withdrawn from Panel 2 and referred to a Special Panel for appellate review.

The Special Panel in this matter shall be constituted as follows:

JOHNSON, JOHN C., Colonel, Chief Appellate Military Judge
KEARLY, CYNTHIA T.., Colonel, Appellate Military Judge
MORGAN, CHRISTOPHER S., Colonel, Appellate Military Judge

This panel letter supersedes all previous panel assignments.

FOR THE COURT

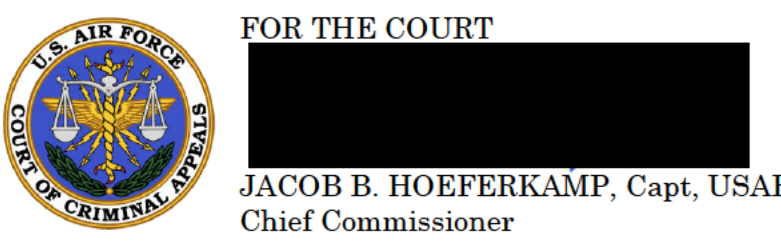
TANICA S. BAGMON
Appellate Court Paralegal

UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS

UNITED STATES	)	**No. ACM 40690**
Appellee	)	
	)	
v.	)	
	)	**ORDER**
Giorgio A. SZABO	)	
Lieutenant Colonel (O-5)	)	
U.S. Air Force	)	
Appellant	)	**Special Panel**

The purpose of this order is to create a record of the status conference regarding this case held on 3 December 2025.

On 3 December 2025, the court held a status conference to discuss the progress of this case. Appellant was represented by Captain Joyclin N. Webster; Lieutenant Colonel Allen S. Abrams from the Appellate Defense Division was also present. Major Kate E. Lee represented the Government. Captain Webster stated that she had reviewed 14 of the 18 volumes in the record of trial. She intends to file one additional motion for enlargement of time until 24 December 2025, by which time she expects to submit Appellant's assignments of error. Lieutenant Colonel Abrams provided additional information regarding the activity of the Appellate Defense Division. Major Lee did not contest any of the representations by appellate defense counsel.



FOR THE COURT

JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)))))))))	**BRIEF ON BEHALF OF APPELLANT** Before Special Panel No. ACM 40690 29 December 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

I.

Whether the military judge abused her discretion by overruling a defense objection and allowing a victim, in an unsworn statement, to recite allegations of uncharged misconduct.

II.

Whether the military judge abused her discretion by accepting Appellant's guilty plea to willfully damaging property, where Appellant's unsolved statements during the providence inquiry negated the essential element of specific intent.

III.[1]

Whether a dismissal is inappropriately severe for a Lieutenant Colonel with more than two decades of distinguished service.

IV.

Whether the case should be remanded because the record of trial is materially incomplete, prejudicing Appellant's fundamental right to a full and fair appellate review.

[1] Assignments of Error (AOE) III and IV are raised in the Appendix pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982).

Summary of the Case

On 3 May 2024, Appellant was tried and sentenced by a panel of officer members sitting as a general court-martial at Joint Base Andrews Naval Air Facility Washington, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge with two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specifications of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge with one specification of fraternization in violation of Article 134, UCMJ; and a charge with one specification of damaging nonmilitary property in violation of Article 109.[2] *Id*. The members sentenced Appellant to be reprimanded, confined for four months and dismissed from the service. R. at 1494.

In accordance with Appellant's request, the Convening Authority deferred Appellant's automatic forfeitures starting fourteen days from the date the sentence was adjudged until the date the military judge signed the entry of judgment. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgment, the automatic forfeitures were waived for a period of four months, release from confinement, or expiration of term of service, whichever was soonest. *Id*. The total pay and allowances were directed to be paid to the ex-spouse of Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

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[2] The remaining charges and specifications were withdrawn and dismissed with prejudice. *Id*

Statement of Facts

Appellant, a commissioned officer, met AC, an enlisted member, at the base gym. R. at 959, 1306. He learned she was an active-duty flight attendant and, early in their acquaintance, became aware of her enlisted status. R. at 960. Shortly after meeting, Appellant and AC began a romantic relationship. *Id*.

From the outset, Appellant knew that, as a commissioned officer, engaging in a romantic relationship with an enlisted member of the Air Force was prohibited. *Id*. Appellant and AC served in different squadrons, and Appellant held no administrative or operational authority over AC. *Id*. The relationship was intermittent, continuing from 2018 until it ended in November 2021. *Id*.

Shortly after their relationship ended, AC voluntarily interviewed with the local Air Force Office of Special Investigations. Pros. Ex. 2 at 5. In that interview, she detailed the nature of her relationship with Appellant and disclosed her knowledge of his use of controlled substances. *Id*.

Appellant's commander subsequently issued a no-contact order ordering him not to communicate with AC. *Id*. at 2. Appellant, however, failed to adhere to the order and contacted AC on over a hundred occasions. *Id*. at 3. Consequently, a Military Protective Order was issued on 12 September 2024, which Appellant violated over a dozen times. *Id*. at 4.

Contemporaneously, the criminal investigation into the substance use allegations proceeded. On 26 August 2022, investigators executed a search of Appellant's residence, where they discovered both cocaine and anabolic steroids. Pros. Ex. 2, Attachment 11; R. at 900. On the same day, a urinalysis was conducted on Appellate. Pros. Ex. 2, Attachment 10; R. at 900. The samples tested positive for the cocaine metabolite. *Id*.

In a signed stipulation of fact, Appellant admitted to his fraternization with AC, his use of cocaine and possession of steroids, and to damaging property at AC's residence. Pros. Ex. 2. The damaged property included two broken wine glasses, a bottle of wine, and a mudroom door that Appellant punched during an argument. *Id*.

Prior to the court-martial, Appellant deployed five times and logged an additional 1,184.8 combat air hours. Pros. Ex. 3 at 1. Appellant's position as a pilot saw him "directly support the Vice President, First Lady, Cabinet Secretaries, and senior U.S. government and military leaders." Pros. 2 at 1.

Additional relevant facts are incorporated below.

Argument

I.

The military judge abused his discretion by overruling a defense objection and allowing a victim, in an unsworn statement, to recite allegations of uncharged misconduct.

Additional Relevant Facts

During the sentencing phase of the trial, Defense counsel timely objected to portions of AC's proposed unsworn victim impact statement that detailed uncharged misconduct. R. at 1332. The military judge overruled the objection, stating, "I am going to overrule your objection, Defense Counsel. I do find under the applicable rights of allocation [sic] of a victim in an unsworn statement, that this reasonably falls within the scope of both destruction of property specification or continuing course of conduct and/or the fraternization specification." R. at 1341.

As a result of the military judge's ruling, AC provided an unsworn victim impact statement to the members. In her statement, she addressed conduct for which Appellant was not charged. She stated that Appellant "broke into my house on two separate occasions after I made

it very clear you were no longer welcome. You entered my home without my permission, trashed my house, and destroyed a lot of my property." R. at 1343. She continued, alleging he "broke my kitchen cabinets, punched a hole in my mudroom door, [and] threw kitchen glassware to my backyard where I, a guest, or my dog could have hurt ourselves." *Id*. She asserted that this alleged conduct caused her "substantial emotional distress" and made her "forever fear for my safety." *Id*.

AC also described other instances of uncharged misconduct, stating, "[o]n other occasions during our relationship, you took your anger out on my personal vehicle and on the rental vehicle." (R. at 1344.) She claimed Appellant "left dents on the roof of my car with your fists, broke my steering wheel repeatedly while repeatedly punching it, slashing my tire with a steak knife, and also punched and cracked the windshield of the rental vehicle that was loaned out to me." *Id*. She attributed an increase in her insurance premium to repairs for this alleged damage. *Id*.

Standard of Review

An appellate court reviews a military judge's decision permitting the introduction of a victim impact statement for an abuse of discretion. *United States v. Hamilton*, 78 M.J. 335, 340 (C.A.A.F. 2019). A military judge commits an abuse of discretion by "permitting the introduction of victim impact statements that did not comply with" the governing Rule for Courts-Martial (R.C.M.). *Id.* This Court reviews the military judge's ruling on the admissibility of a victim's unsworn statement for an abuse of discretion. *United States v. Cunningham*, 83 M.J. 367, 371 (C.A.A.F. 2023). "A military judge abuses his discretion when he admits evidence based on an erroneous view of the law." *Hamilton*, 78 M.J. at 340 (citing *United States v. Barker*, 77 M.J. 377, 383 (C.A.A.F. 2018)).

Analysis

The right of a victim to make an unsworn statement during sentencing is not a license to introduce unbounded allegations of uncharged misconduct. The scope of such statements is strictly controlled by the Rules for Courts-Martial. R.C.M. 1001(c)(3) is unequivocal: a victim's unsworn statement "may only include victim impact and matters in mitigation." The rule does not permit the introduction of aggravating evidence or character attacks disguised as victim impact. *United States v. Edwards*, 82 M.J. 239, 245 (C.A.A.F. 2022) (citations omitted).

The definition of "victim impact" is just as specific. R.C.M. 1001(c)(2)(B) defines it as "any financial, social, psychological, or medical impact on the crime victim directly relating to or arising from the offense of which the accused has been found guilty." The Court of Appeals for the Armed Forces (CAAF) recently interpreted this language in *United States v. Campos*, 85 M.J. 310 (C.A.A.F. 2025). The CAAF held that this definition creates a two-part test: the content of the statement must relate to (1) the offenses of which the accused has been found guilty, and (2) the impacts arising from *those specific offenses*. *Id.* at 315. Both elements are required. *Id.*

Allegations of uncharged misconduct fail this test on the first element. By definition, they do not concern the offenses for which the accused was convicted. Instead, they introduce new, unproven allegations that serve only to portray the accused as a person of bad character. The *Campos* court explicitly stated that nothing in R.C.M. 1001(c) authorizes a victim's unsworn statement to be used to provide information about the accused's bad character. *Campos*, 85 M.J. at 315.

Here, the disconnect between Appellant's actual convictions and AC's unsworn statement is stark. Appellant was convicted of fraternization, cocaine use, steroid possession, violating lawful orders, and a single, limited specification of damaging non-military property.

Charge Sheet; R. at 1009. AC, however, was not the victim of the drug offenses, and her unsworn statement barely touched upon the fraternization or the specific property damage of which Appellant was convicted. Instead, she provided a gripping account of completely separate, uncharged allegations.

She told the members that Appellant "broke into my house on two separate occasions," "trashed my house, and destroyed a lot of my property." R. at 1343. This included allegations that he "broke my kitchen cabinets" and "threw kitchen glassware to my backyard." *Id*. She then detailed other supposed crimes, describing how Appellant:

> took [his] anger out on my personal vehicle and on the rental vehicle... You left dents on the roof of my car with your fists, broke my steering wheel repeatedly while repeatedly punching it, slashing my tire with a steak knife, and also punched and cracked the windshield of the rental vehicle...

R. at 1344.

These are not "impacts" arising from the convicted offenses. They are vivid descriptions of entirely different, and far more serious, uncharged crimes: breaking and entering, extensive vandalism, and assault with a dangerous weapon. The emotional and financial harms she described were explicitly tied to this uncharged conduct. Her "substantial emotional distress" and fear for her safety stemmed from the alleged break-ins. R. at 1343. The increased insurance premium she mentioned was the result of the alleged vehicle damage. R. at 1344. None of this was related to or arose from the actual offenses of conviction, and allowing the members to hear it was a clear violation of R.C.M. 1001(c).

When the military judge allowed AC to detail uncharged crimes, she abused her discretion. The judge's reliance on a statement being "within the scope of both destruction of property specification or continuing course of conduct "theory is precisely the logic the CAAF rejected in *Campos*. The result of this erroneous ruling was that AC presented a litany of

uncharged criminal allegations that were wholly disconnected from the offenses for which Appellant was convicted.

These statements fail both elements of the *Campos* test. First, they do not concern "the offense[s] of which the accused has been found guilty." *Campos*, 85 M.J. at 315 (emphasis omitted). They are entirely new and distinct allegations of criminal conduct. Second, the impacts described—fear for her safety and an increased insurance premium, R. at 1344—do not arise from the convicted offenses but rather "directly relat[e] to or aris[e] from" the *uncharged* misconduct she described. This is not victim impact; it is a raw appeal to punish Appellant for unproven allegations and his supposed bad character, which is explicitly forbidden. The military judge's decision to allow it was a clear abuse of discretion.

The military judge's error was not harmless; it substantially influenced the sentence. Four factors are considered when evaluating prejudice in victim impact statements: "(1) the strength of the Government's case; (2) the strength of the defense case; (3) the materiality of the evidence in question; and (4) the quality of the evidence in question." *Campos*, 85 M.J. at 314 (citing *Hamilton*, 78 M.J. at 340).

As this case was a guilty plea, the first two factors do not indicate prejudice. However, the third and fourth factors—materiality and quality of the improper statements—are dispositive. The materiality of the improper statements here was exceptionally high. Unlike the allegations of yelling or taking a phone in *Campos*, 85 M.J. at 317, AC's testimony described violent, felonious conduct: breaking and entering, extensive property destruction, and vandalism with a weapon ("slashing my tire with a steak knife"). R. at 1343-44. These are not minor acts; they paint a picture of a violent and uncontrolled individual, distinct from and in addition to the charged

offenses. The military judge herself confirmed their materiality when she expressly found they fell within a "continuing course of conduct." R. at 1341.

While the quality of the statements was high, as they were being delivered in front of the members by AC. The vivid and criminal allegations were powerfully prejudicial. Moreover, the military judge's limiting instruction to the members was insufficient to cure the harm. R. at 1479. An instruction cannot un-ring the bell. More importantly, the judge's ruling demonstrates that *she* considered the evidence material to sentencing. The instruction to the members did nothing to cure the prejudice that infected the judge's own consideration when she erroneously admitted the statements. The error was therefore prejudicial and warrants relief.

Conclusion

The military judge abused her discretion under R.C.M. 1001(c) by permitting the victim to deliver an unsworn statement filled with allegations of uncharged misconduct. As the CAAF made clear in *Campos*, such statements are strictly limited to the impacts of convicted offenses. The error was prejudicial and substantially influenced Appellant's sentence. Appellant requests that this Honorable Court set aside the portion of his sentence requiring dismissal.

II.

The military judge abused her discretion by accepting Appellant's guilty plea to willfully damaging property, where Appellant's unsolved statements during the providence inquiry negated the essential element of specific intent.

Additional Relevant Facts

Appellant pleaded guilty to one specification of willfully and wrongfully damaging a door, property of AC, in violation of Article 109, UCMJ. During the providence inquiry pursuant to *United States v. Care*, 18 C.M.A. 535, 40 C.M.R. 247 (1969), Appellant admitted to

intentionally striking the door in a moment of frustration. However, he immediately and consistently disavowed the specific intent required for the offense, stating that he:

> didn't intend to necessarily punch a hole in the door but I was aware that hitting my fist against the door was going to certainly damage it some – the door in some capacity. I was familiar with the door and the fact that it was not made of the best wood, I knew it would likely impact – the impact of my fist would cause damage to the door.

R. at 972.

The military judge went on to ask Appellant if his actions were willful, to which Appellant answered in the affirmative. R. at 975-976. However, when the military judge asked Appellant if he intended to damage the door, Appellant once again denied having a specific intent to damage the door. R. at 976. Specifically, Appellant stated:

> I struck the door and any reasonable person could – would have assumed there would be some damage to the door striking the door the way I did and I knew that. So, in that sense it was intentional. I didn't mean to punch a hole in the door but it was reasonable to assume I would have damaged the door by hitting it the way I did.

Id.

At no point during the colloquy did Appellant retract, modify, or clarify his initial, express statements that he lacked any intent to cause damage. R. at 971-72, 975-79. Despite the unresolved conflict between Appellant's statements and the element of willfulness, the military judge accepted his guilty plea. R. at 1009.

Standard of Review

This Court reviews 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). A judge abuses that discretion where there is a "substantial conflict between the plea and the accused's statements." *United States v. Saul*, ___ M.J. ___, USCA Dkt. No. 24-0098/AF, 2025 CAAF

LEXIS 578, at *7 (C.A.A.F. July 21, 2025) (quoting *United States v. Garcia*, 44 M.J. 496, 498 (C.A.A.F. 1996)).

Article 45(a), UCMJ, mandates that if an accused "sets up matter inconsistent with the plea . . . a plea of not guilty shall be entered in the record."

Analysis

The offense of damaging nonmilitary property under Article 109, UCMJ, requires that the accused act "willfully and wrongfully." This requires the Government to prove a specific intent to damage the property, not merely an intent to do the act that results in damage. *United States v. Bernacki*, 33 C.M.R. 173, 175-76 (C.M.A. 1963). As the CAAF held in *Saul*, 2025 CAAF LEXIS 578, at *11-14, an accused's repeated statements denying intent to cause damage are substantially inconsistent with a plea of guilty to an Article 109 offense. Even where a judge might infer intent from the natural and probable consequences of an act, that inference cannot resolve the "substantial inconsistency" created by the accused's express denial of intent if the accused never retracts or modifies those statements. *Id.*

Appellant's plea to violating Article 109, UCMJ, was improvident because his statements during the providence inquiry established a substantial inconsistency with his plea of guilty. The specific intent to willfully damage property is an essential element of an Article 109, UCMJ, offense. When Appellant unequivocally stated that he "did not intend to damage the door," R. at 976, he directly negated this required mental state. This created a clear and substantial conflict between his factual recitation and his formal plea that the military judge failed to resolve.

The facts of this case are analogous to those in *Saul*, where the CAAF found a plea to be improvident under nearly identical circumstances. In *Saul*, the appellant admitted to forcefully striking a car windshield but, like Appellant here, "repeatedly stat[ed] that he did not intend to

cause damage." 2025 CAAF LEXIS 578, at *3. The Court held that such an express disavowal of intent creates a "substantial inconsistency" with a plea to willfully destroying property in violation of Article 109, UCMJ. *Id.* at *11-12. Just as in *Saul*, Appellant's admission to the physical act of striking the door cannot be reconciled with his simultaneous and unwavering denial of the required criminal intent.

This inconsistency was not a mere "possibility of conflict," which would be insufficient to overturn the plea, *United States v. Prater*, 32 M.J. 433, 436 (C.M.A. 1991) (quoting *United States v. Logan*, 47 C.M.R. 1, 3 (C.M.A. 1973)), but a direct contradiction of a crucial element of the offense. By denying the intent to cause damage, Appellant set up "matter inconsistent with the plea" within the plain meaning of Article 45(a), UCMJ. This is precisely the scenario the CAAF analyzed in *Saul*, a substantial conflict in the providence inquiry that requires affirmative action from the military judge. The moment Appellant denied the required *mens rea*, a substantial inconsistency arose, triggering the military judge's duty under Article 45(a) to either resolve the conflict or reject the plea.

Here, the military judge failed to follow that mandate. Crucially, at no point did Appellant retract or modify his earlier statements that he did not intend to damage the door. R. at 971-72, 975-79. Appellant's concession that some damage was a reasonable outcome is legally distinct from an admission that he possessed the specific intent to cause it. Without an explicit resolution of this conflict, the military judge "could not accept the guilty plea with this substantial inconsistency unresolved." *Saul*, 2025 CAAF LEXIS 578, at *12. Because the conflict remained, Article 45(a), UCMJ, compelled the military judge to enter a plea of not guilty on Appellant's behalf. The failure to do so was an abuse of discretion.

Conclusion

Appellant's statements during his plea colloquy set forth matter that was substantially inconsistent with the specific intent required for a violation of Article 109, UCMJ. He admitted the act of striking the door but repeatedly denied any intent to cause damage. Pursuant to Article 45(a), UCMJ, the military judge had a duty to either resolve this inconsistency or reject the plea. By failing to do so, the military judge abused her discretion.

Appellant requests that this Honorable Court set aside the finding of guilt as to the affected Charge and its specification.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 29 December 2025.

Respectfully submitted,

[REDACTED]

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

[REDACTED]

Appendix

Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), Giorgio Szabo, Appellant, through appellate defense counsel, personally requests that this Court consider the following matters:

III.

A dismissal is inappropriately severe for a Lieutenant Colonel with more than two decades of distinguished service.

Additional Relevant Facts

Major (Maj) WS's character letter stated that Appellant "exhibited the highest standards that can be expected of an officer and a pilot in the United States Air Force." Def. Ex. T; R. at 1391; 1406. During the sentencing hearing, Maj WS testified about why he was still willing to write a character letter for the Appellant, specifically stating:

> For a 20 year career. . . it is really hard to be perfect and I don't see . . . the perfect scenario that we want to see, absolutely not, but with him admitting and having integrity, something we push all the time in the Air Force. For him to admit that he has done wrong, I think goes a long ways. And I think that's just the testament . . . he's messed up, but he's owning that and between the 20 years of service he has done, not only the prior years prior to the 89th, it is a slight few that get to go to the 89th. So I think that is something that should be . . . looked at, and he has flown and set the example for the highest people in the United States and I think that leadership shows.

R. at 1408.

Master Sergeant (MSgt) JK also wrote a character letter stating "Without a doubt I would put Lieutenant Colonel Szabo 3 in the top 5% of officers, pilots, and mission commanders I've had the distinct pleasure of 4 working and flying with, "and "[p]eople become better Airmen and aviators when they work with Lieutenant Colonel Szabo and it is an honor to be able to write a letter to be considered on his behalf." R. at 1411.

During the sentencing hearing, MSgt testified about why he was still willing to write a character letter for the Appellant and why he rated Appellant as being in the top 5% of aircraft commanders, specifically saying:

> I wrote that letter based on, I would say, nearly a decade of professional and I believe I used the term, within the field, experience with Colonel Szabo. Someone – what someone does in their private life, no matter who it is, if they don't share that with somebody, I don't know that. What I can tell you, beyond a shadow of a doubt, is in the cockpit or on a mission – before we even get into the cockpit, from mission preparation, every single phase of that mission was led with professionalism as a team from the aircraft commander, which in this case was Colonel Szabo. There was no doubt in my mind that he was the cream of the crop. I've flown with probably 1000 different aircraft commanders in 24 years. From that context, I can tell you who makes a good aircraft commander, who can drive a good mission, than who is marginal, who's adequate, and those that are substandard.

R. at 1419.

Lieutenant Colonel (Lt Col) AC, the commander who issued the no contact to Appellant, expressed Appellant's ability to be an excellent performer even in the face of the investigation related to this case and subsequent court-martial. Def. Ex. M at 1. During this time Appellant was "a valuable officer and team member," who "chose to do the right thing each day at work, knowing it was the harder path, and that he continued to help serve [his] squadron and [the] Air Force." Id. at 2. In fact, Appellant completed the projects assigned to him, trained new co-pilots, supported air crews, and took on a high tempo position at the Squadron's scheduling desk, working more than double the time of anyone else assigned to the position. *Id*.

Standard of Review

The applicable version of Article 66(d)(1), UCMJ, "provides that [this Court] 'may affirm only . . . the sentence, or such part or amount of the sentence, as the Court finds correct in law and fact and determines, on the basis of the entire record, should be approved.'" *United States v. Flores*,

84 M.J. 277, 280-81 (C.A.A.F. 2024). Fundamentally, this means that this Court must "determine whether it finds the sentence to be appropriate." *Id.* at 281 (citation omitted).

Appellant asks this Court to exercise its broad power to ensure a just sentence, not to grant mercy. *See United States v. Nerad*, 69 M.J. 138, 146 (C.A.A.F. 2010) (citation omitted). In assessing sentence appropriateness, this Court considers "the particular appellant, the nature and seriousness of the offense[s], the appellant's record of service, and all matters contained in the record of trial." *United States v. Sauk*, 74 M.J. 594, 606 (A.F. Ct. Crim. App. 2015) (en banc) (alteration in original) (citation omitted). "The power to review the entire record for sentence appropriateness includes the power to consider the allied papers, as well as the record of trial proceedings." *United States v. Hutchison*, 57 M.J. 231, 234 (C.A.A.F. 2002).

Sentence appropriateness is reviewed under an abuse-of-discretion standard, granting significant deference to trial-level sentencing decisions. *United States v. Lacy*, 50 M.J. 286, 288 (C.A.A.F. 1999). While a sentence falling within the range established by a plea agreement is presumptively appropriate, this presumption does not eliminate this Court's responsibility to ensure justice and fairness by individually reviewing all facts and circumstances in the record. *United States v. Martinez*, 76 M.J. 837, 841-42 (A. Ct. Crim. App. 2017).

Analysis

While a sentencing authority possesses broad discretion, that discretion is abused when a sentence is unjustly severe in light of the totality of the circumstances. The sentence of a dismissal for Appellant, an officer with twenty-one years of dedicated service, represents such an abuse. It is an inappropriately severe punishment that disproportionately elevates a single, aberrational period of misconduct over a lifetime of exemplary performance, effectively erasing a distinguished career for offenses stemming from a single personal crisis.

The seriousness of the offenses to which Appellant pleaded guilty is not in dispute. Such conduct is unbecoming of any service member, let alone a senior field grade officer. However, the purpose of sentencing is not merely to punish the offense, but to fashion a just sentence for the offender. In this case, the sentencing authority failed to give adequate weight to the overwhelming evidence presented in mitigation and extenuation.

The record establishes that Appellant's misconduct was a departure from an otherwise impeccable twenty-one-year career. The record includes thirty-four character letters from superiors, peers, and subordinates attesting to Appellant's outstanding leadership, mentorship, and profound positive impact on his Airmen. Def. Ex. H-AF; R. at 1465-66. This is the portrait of an officer whose career, until these events, was the model of what the Air Force expects from its leaders. *Id*.

One of the most compelling is the character letter provided by the very commander whose orders Appellant violated. This commander, the individual most directly affected by Appellant's disobedience and the one best positioned to assess Appellant's impact on good order and discipline, still saw fit to advocate on Appellant's behalf. *See* Def. Ex M. Such an endorsement is a powerful and unusual form of mitigation.

For a court-martial to impose the most severe professional penalty in the face of such evidence indicates a failure to properly tailor the sentence to the specific facts and individual before it.

For an officer on the cusp of retirement, a dismissal "would serve to strip [Appellant] of basically all retirement benefits and military benefits." R. at 1040. "A Dismissal may deprive one of substantially all benefits administered by the Department of Veterans Affairs and the military establishment." R. at 1475. It strips him not only of his commission but also of the financial

security and dignity of the retirement he has spent his entire career earning. Such a catastrophic sanction should be reserved for officers who are shown to be beyond rehabilitation or whose actions cause such grave harm to the institution that their complete separation is necessary. *See United States v. Mazer*, 62 M.J. 571, 576 (N-M. Ct. Crim. App. 2005) (acknowledging dismissal "is severe punishment"). The mountain of evidence attesting to Appellant's decades of positive contributions, combined with the support from the commander he wronged, makes clear that Appellant does not fall into that category.

Lesser, yet still significant, punishments were available to hold Appellant accountable. A reprimand, combined with substantial forfeitures of pay, could have adequately punished the misconduct and served the ends of justice without being so destructive. By opting for a dismissal, the members chose retribution over individualized justice.

Appellant requests that this Honorable Court set aside the dismissal.

IV.

The case should be remanded because the record of trial is materially incomplete, prejudicing Appellant's fundamental right to a full and fair appellate review.

Lines 15-19 of the transcript are not in the audio recording. *Compare* R. at 218, *with* 28 February 2024 open session audio file US v. Szabo_20240228-0745_01da6a1a09fb2980. Notwithstanding the missing audio, the court reporter signed a certification on 15 August 2024 stating: "I hereby certify that I reviewed the transcript of this record, pages 13-618, and that it is an accurate reflection of the proceeding of the court, in accordance with DAFI 51-201, paragraph 20.47.3, and DAFMAN 51-203, paragraph 3.7." Certification of the Record of Trial in the case of *United States v. Lieutenant Colonel Giorgio Szabo* (15 Aug. 2024), in Certified Record of Trial, Volume 18 of 18.

Standard of Review

In *United States v. Davenport*, the CAAF affirmed that whether a record is complete is a question of law reviewed de novo. 73 M.J. 373, 376 (C.A.A.F. 2014). Similarly, the CAAF held in *United States v. Stoffer* that "[w]hether an omission from a record of trial is substantial is a question of law [Courts of Criminal Appeals] review de novo." 53 M.J. 26, 27 (C.A.A.F. 2000).

Analysis

The record of trial is "the very heart of the criminal proceedings and the single essential element to . . . meaningful appellate review." *United States v. Credit*, 4 M.J. 118, 119 (C.M.A. 1977). A substantially verbatim audio recording is a component of a court-martial record, R.C.M. 1112(b)(1); the transcript is not. Rather, the transcript is merely an attachment to the record. R.C.M. 1114(d) ("If a certified transcript is made under this rule, it shall be attached to the record of trial.").

The Military Justice Act of 2016 amended Article 54(c) of the Uniform Code of Military Justice (UCMJ) to provide that a record of trial "shall contain such matters as the President may prescribe by regulation."[3] R.C.M. 1112(b) states that "[t]he record of trial in every general and special court-martial shall include . . . [a] substantially verbatim recording of the court-martial proceedings except sessions closed for deliberations and voting." R.C.M. 1112(d)(2)) specifies that "[a] record of trial is complete if it complies with the requirements of [R.C.M. 1112](b)," which include the requirement for a substantially verbatim recording of the court-martial proceedings. Lest there be any doubt that the record must include audio of the court-

[3] National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328, § 5238, 130 Stat. 2000, 2918 (codified at 10 U.S.C. § 854(c)(1)). Division E of the National Defense Authorization Act for Fiscal Year 2017 is the Military Justice Act of 2016. *See* Pub. L. No. 114-328, § 5001, 130 Stat. at 2894. Article 54, UCMJ, has not been amended since enactment of the Military Justice Act of 2016.

martial proceedings rather than a mere written transcript, the record of a general or special court-martial "shall be independent of any other document and shall include a recording of the court-martial. Court-martial proceedings may be recorded by videotape, audiotape, or other technology from which sound images may be reproduced to accurately depict the court-martial." R.C.M. 1112(a)

In addition to requiring a sound recording of a court-martial that is "independent of any other document," R.C.M. 1114(d) states that "[i]f a certified transcript is made under [R.C.M. 1114], it shall be attached to the record of trial." Thus, a certified transcript is a required *attachment to* the record of trial but, unlike audio recordings, is not a *part of* the record of trial of a general or special court-martial.

A record of trial that does not include a substantially verbatim recording of the court-martial proceedings is incomplete. *United States v. Valentin-Andino*, 83 M.J. 537, 540–41 (A.F. Ct. Crim. App. 2023), *petition granted on other grounds*, __ M.J. __, No. 24-0208/AF, 2024 CAAF LEXIS 571 (C.A.A.F. Sept. 30, 2024). Appellate courts assess whether an omission is substantial on a case-by-case basis. *United States v. Abrams*, 50 M.J. 361, 363 (C.A.A.F. 1999). "Omissions are quantitatively substantial unless 'the totality of omissions . . . becomes so unimportant and so uninfluential when viewed in the light of the whole record, that it approaches nothingness.'" *Davenport*, 73 M.J. at 377 (ellipsis in original) (quoting *United States v. Nelson*, 13 C.M.R. 38, 43 (C.M.A. 1953)).

This Court cannot conduct its statutorily mandated review because the record before it is incomplete. *Compare* R. at 218, *with* 28 February 2024 open session audio file US v. Szabo_20240228-0745_01da6a1a09fb2980. A portion of the proceedings was included recorded, leaving a gap in the record, depriving a complete review of the record. Specifically, lines 15-19

of the transcript are not in the audio recording. *Id*. While a transcription of this portion exists, it is no substitute for the recording. *See United States v. McCoy*, No. ACM 40119, 2022 CCA LEXIS 632, at *2 (A.F. Ct. Crim. App. Oct. 31, 2022) (order); *United States v. Brown*, No. ACM 40066, 2022 CCA LEXIS 625, at *2 (A.F. Ct. Crim. App. Oct. 25, 2022) (order). Furthermore, while this portion of the transcript is relatively short in comparison to the 1,495 page transcript, the absence of the audio makes it impossible to determine if the transcript is correct. This omission is substantial and presumptively prejudicial. *United States v. Henry*, 53 M.J. 108, 111 (C.A.A.F. 2000).

For any case, like this one, involving a sentence of dismissal, Article 54(c)(2), UCMJ, unequivocally states that "a complete record of proceedings and testimony" is required. 10 U.S.C. § 854(c)(2). This is not a procedural nicety; it is a substantive prerequisite for appellate review.

Here, the record is facially incomplete. The absence of a portion of the trial recording creates a material omission. This omission is "substantial" as it prevents the appellate court from conducting a "full and fair review" of the proceedings. By losing the source audio, the government has created an incomplete record that forecloses any inquiry into the transcripts accuracy. R.C.M. 1112(d)(2) provides that where a certified record of trial is incomplete, a "superior competent authority may return" it "to the military judge for correction." That is the appropriate remedy for the incomplete record of trial in this case.

Appellant requests that this Honorable Court remand the case to provide the government an opportunity to correct the error.

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,*	)	**UNITED STATES' ANSWER TO ASSIGNMENTS OF ERROR**
	)	
v.	)	Before Special Panel
	)	
Lieutenant Colonel (O-5) **GIORGIO A. SZABO**, USAF, *Appellant.*	)	No. ACM 40690 26 January 2026

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

ASSIGNMENTS OF ERROR

I.

WHETHER THE MILITARY JUDGE ABUSED HER DISCRETION BY OVERRULING A DEFENSE OBJECTION AND ALLOWING A VICTIM, IN AN UNSWORN STATEMENT, TO RECITE ALLEGATIONS OF UNCHARGED MISCONDUCT.

II.

WHETHER THE MILITARY JUDGE ABUSED HER DISCRETION BY ACCEPTING APPELLANT'S GUILTY PLEA TO WILLFULLY DAMAGING PROPERTY, WHERE APPELLANT'S UNSOLVED STATEMENTS DURING THE PROVIDENCE INQUIRY NEGATED THE ESSENTIAL ELEMENT OF SPECIFIC INTENT.

III.[1]

WHETHER A DISMISSAL IS INAPPROPRIATELY SEVERE FOR A LIEUTENANT COLONEL WITH MORE THAN TWO DECADES OF DISTINGUISHED SERVICE.

[1] Appellant raises Issue III in his appendix pursuant to United States v. Grostefon, 12 M.J. 431 (C.M.A. 1992).

IV.[2]

WHETHER THE CASE SHOULD BE REMANDED BECAUSE THE RECORD OF TRIAL IS MATERIALLY INCOMPLETE, PREJUDICING APPELLANT'S FUNDAMENTAL RIGHT TO A FULL AND FAIR APPELLATE REVIEW.

STATEMENT OF CASE

The United States accepts Appellant's statement of the case.

STATEMENT OF FACTS

For the three-and-a-half-year period from May 2018 to November 2021, Appellant committed fraternization by having an intimate, sexual relationship with SSgt A.C., an enlisted Air Force member. (Pros. Ex. 1, paras. 10, 45.) He also managed her social media accounts, including OnlyFans and Instagram, and prepared her for photo shoots in various states of undress. (Id., para. 49.) Appellant made approximately $40,000 from the sales of SSgt A.C.'s images, and he provided the proceeds to her. (Id.) During Appellant's relationship with SSgt A.C., multiple enlisted members over whom Appellant exercised authority became aware of the relationship, and Appellant asked them to keep it a secret. (Id., paras. 52-53; id., Atch. 17.)

During arguments on more than one occasion between Appellant and SSgt A.C., he damaged her property, including the mudroom door to her home and a wine bottle and wine glasses. (Id., paras. 59-60; id., Atch 18.)

During their relationship, Appellant persuaded SSgt A.C. to use cocaine, a drug he also wrongfully used more than 100 times on multiple occasions from October 2019 to August 2022, including in public and around other people. (Pros. Ex. 1, Atch. 9; id., paras. 32-33, 36.) He wrote numerous messages to her, including, "I'm so excited you said you would do coke with me," "Will

[2] Appellant raises Issue IV in his appendix pursuant to Grostefon.

you do a bump with me before working out," "We can't sleep take a bump if you have to," "Take a bump babe," "Do a bump," "My baby needs a bump," "Baby I want to do more coke with you LOL," "My model flight attendant needs her milkshakes [code for cocaine]," "And I need you doing a little more milkshakes," and "Do more candy [code for cocaine] it makes daddy happy," to list a few example. (Pros. Ex. 1, Atch. 9.) As Appellant admitted in one message to SSgt A.C., "If you ever get in trouble with work, tell the truth. You were manipulated by a boyfriend who had power over you." (Id., Atch 14.)

After Appellant's relationship with SSgt A.C. ended, on 10 June 2022, Appellant's commander ordered he have no contact with her. (Pros. Ex. 1, paras. 12, 15; id., Atch. 1.) Appellant violated that order several hundred times over the next four months by contacting SSgt A.C., including by sending many manipulative messages. (Id., para. 20; id., Atchs 3, 4, 8, 16.)

On 26 August 2022, Appellant provided a urine specimen, which later tested positive for the presence of the cocaine metabolite, and the Air Force Office of Special Investigations (AFOSI) searched his residence and seized cocaine. (Id., paras. 37-38.) During the same period he was using cocaine, Appellant also possessed anabolic steroids, Schedule III controlled substances. (Id., paras. 39, 43.)

On 12 September 2022, because Appellant repeatedly violated the no-contact order, a written military protective order (MPO) prohibited Appellant from having future contact with SSgt A.C. (Id., paras. 21, 24; id., Atch 5.) SSgt A.C. had tried to avoid contact from Appellant by blocking him from several communication and social media platforms. Nonetheless, Appellant violated that MPO dozens of times over the next nine months, including at least 10 times after court-martial charges were preferred against him, with messages in which he asked her to consider, when speaking with AFOSI, that he provided for his children. (Id., paras. 25-28; id., Atchs. 9, 16.)

Additional relevant facts, if necessary, are included in addressing issues below.

ARGUMENT

I.

APPELLANT WITHDREW AND WAIVED HIS OBJECTIONS TO PARAGRAPH TWO IN THE VICTIM IMPACT STATEMENT AND, FOR THE MAINTAINED OBJECTION TO PARAGRAPH FIVE, THE VICTIM IMPACT STATEMENT WAS PROPERLY ADMITTED.

Additional Facts

During the sentencing phase of the court-martial, the victim stated, "After I had finally had enough, I tried to end our relationship but in response you broke into my house on two separate occasions –" and the defense objected. (R. at 1332.) The military judge granted the defense's request for a session pursuant to Article 39(a), UCMJ. (Id.) During that session, defense counsel referenced the proffer of the written victim impact statement (VIS) they had received earlier, and they requested time to discuss objections with the prosecution and victims' counsel off the record. (R. at 1334.)[3]

When the court-martial resumed, the military judge asked, "Trial Counsel, Defense Counsel, Victims' Counsel, have we come to an agreement on what will be read?" (R. at 1336.) Defense counsel responded, "Your Honor, I think we're in agreement on all but one paragraph." (Id.) Defense counsel identified that one paragraph upon which the parties disagreed, "Your Honor, paragraph 5 that begins, 'On other occasions during our relationship.'" (Id.)[4] Defense counsel argued paragraph 5 of the VIS had no timeline to determine whether it could be considered

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[3] SSgt A.C. had already testified regarding the uncharged incidents from the VIS during the first Article 39(a), UCMJ, session on 14 December 2023. (R. at 137, 140-43.)

[4] Apparently, trial defense counsel did not include the first introductory paragraph of the VIS when numbering the paragraphs of the VIS. Thus, for consistency, this Answer does the same.

part of a continuing course of conduct, because it did not clarify when the conduct was in relation to the offenses to which Appellant had pleaded guilty. (R. at 1337, 1340.) Trial defense counsel did not maintain their objection to the portion of the VIS, paragraph 2, that SSgt A.C. was reading when they initially objected.

Paragraph 5 of the VIS states:

> On other occasions during our relationship, you took your anger out on my personal vehicle and on a rental car I was using after you damaged my personal vehicle. You left dents on the top of my car with your fists, broke my steering wheel by repeatedly punching it, slashed my tire with a steak knife. You also punched and cracked the windshield of my rental vehicle that was loaned out to me. The repairs for this damage led to an increase in my insurance premium.

(App. Ex. CXXVIII, p.1; Court Ex. A, p.1.)

The military judge heard from victims' counsel who cited United States v. Goldsmith, No. ACM 40148, 2023 CCA LEXIS 8 (A.F. Ct. Crim. App. 11 January 2023) (unpub. op.), who explained that R.C.M. 1001(c) and not M.R.E. 403 applies to admission of victim impact statements, and who argued the statement established a "continuing course of conduct" in which Appellant destroyed or damaged SSgt A.C.'s property when he got upset, which actions had emotional and pecuniary impacts upon her. (R. at 1339.)

Appellant's trial defense counsel argued that the incidents raised by the VIS were "far worse" than the charged crimes, and the VIS might have recounted incidents outside of the small period between the two charged damage-to-property offenses. (R. at 1340.) Victims' counsel offered that SSgt A.C. could add more detail to the VIS about the timing of the uncharged misconduct. (R. at 1340-41.)

The military judge overruled the defense objection, stating:

> I am going to overrule your objection, Defense Counsel. I do find under the applicable rights of allocation [sic] of a victim in an

> unsworn statement, that this reasonably falls within the scope of both destruction of property specification or continuing course of conduct and/or the fraternization specification. Understanding you have the ability to rebut statements within the unsworn or certainly argue the weight … if any, to be given to these statements.

(R. at 1341.)

During their sentencing argument, trial defense counsel argued:

> The statement [SSgt A.C.] gave you, that's not testimony. … It hasn't gone through any crucible. There's no – not necessarily any evidence that supports it. It's not charged. Prosecution had her right here, they could have answered any of those questions while she was on the stand and they chose not to and that's important to reflect on why that might be. It's not in the Stipulation of Fact that you received, which is agreed to by both the defense counsel and the prosecution and the accused. And again, the military judge's instruction as well, it's theoretically possible for the defense to rebut what's put in an impact statement. But members, I'd ask you to reflect on this, it's really hard to disprove a negative. Something that doesn't have any evidence.

(R. at 1462.)

Later, the military judge instructed the members regarding unsworn statements:

> The weight and significance to be attached to an unsworn statement rests within the sound discretion of each court member. You may consider that the statement is not under oath, its inherent probability or improbability, whether it is supported or contradicted by evidence in the case, as well as any other matter that may have a bearing upon its credibility. In weighing an unsworn statement, you are expected to use your common sense and knowledge of human nature and the ways of the world.

(R. at 1478.)

The military judge also provided a limiting instruction regarding uncharged misconduct:

> In her unsworn statement, [SSgt A.C.] made reference to conduct of the accused other than that – other than what he stands convicted of. While that was permissible for her to comment on during her right of allocution, you may not consider this uncharged misconduct evidence to consider or impose more severe punishment on account of the uncharged conduct, or that [Appellant] had a criminal propensity, or consider that the value of the other alleged damaged

> property should affect [Appellant's] sentence. Although you must give due consideration to all matters properly before you, you must bear in mind that the accused is to be sentenced only for the offenses of which he has been found guilty.

(R. at 1479.)

Standard of Review

This Court reviews the military judge's ruling on the admissibility of a victim's unsworn statement for abuse of discretion. United States v. Cunningham, 83 M.J. 367, 371 (C.A.A.F. 2023).

Law

R.C.M. 1001(c)(2)(B) states:

> Victim impact. For purposes of R.C.M. 1001(c), victim impact includes any financial, social, psychological, or medical impact on the crime victim directly relating to or arising from the offense of which the accused has been found guilty.

Prior to the recent case of United States v. Campos, 85 M.J. 310 (C.A.A.F. 2025), this Court had held that, "when uncharged misconduct is part of a continuous course of conduct involving similar crimes and similar victims, it is encompassed within the language 'directly relating to or resulting from the offenses of which the accused has been found guilty'. . . ." United States v. Menard, No. ACM 40496, 2025 CCA LEXIS 137, *44 (A.F. Ct. Crim. App. 28 March 2025) (unpub. op.) (quoting United States v. Nourse, 55 M.J. 229, 232 (C.A.A.F. 2001)). The purpose of such evidence was to demonstrate the "full" or "true" impact of an appellant's crime. Id. In determining whether evidence is "directly related" to the offenses which an appellant was convicted of, the Court assessed whether the evidence is both direct and "closely related in time, type, and/or often outcome, to the convicted crime." Id. (citing United States v. Hardison, 64 M.J. 279, 281-82 (C.A.A.F. 2007)).

However, in Campos, a decision released several months after the conclusion of Appellant's court-martial, CAAF, for the first time, declared that the continuing course of conduct theory for admission of victim impact evidence is inapplicable to R.C.M. 1001(c)(2)(B) unsworn victim impact statements. 85 M.J. at 316.

When a military judge has abused their discretion in rejecting objections to a victim's unsworn statement, the Court will grant relief only if the Court is persuaded that the improper portion of the victim impact statement "substantially influenced the adjudged sentence." Campos, 85 M.J. at 314 (internal citation omitted). In determining whether improperly admitted evidence substantially influenced a sentence, this Court considers four factors: "(1) the strength of the Government's case; (2) the strength of the defense case; (3) the materiality of the evidence in question; and (4) the quality of the evidence in question." Id.

Analysis

Appellant claims various statements within the VIS (App. Ex. CXXVIII) were improperly presented to the court-martial members. (App. Br. at 4-5 (citing R. at 1343-44).) However, Appellant waived his prior objection to paragraph 2 of the VIS and, for paragraph 5 of the VIS (as well as for paragraph 2 if the Court were to consider the objection as not waived), any error in permitting statements within the VIS was harmless, because it did not substantially influence the adjudged sentence.

1. Appellant waived his objections to paragraph 2 of the VIS

Appellant cites, as improperly permitted, portions from paragraph 2 of the VIS in which SSgt A.C. said he "broke into my house on two separate occasions," "trashed my house, and destroyed a lot of my property," "broke my kitchen cabinets," and "threw kitchen glassware to my backyard." (App. Br. at 7 (citing R. at 1343).) However, trial defense counsel withdrew the

objections to paragraph 2 when he told the military judge the only remaining objection was to paragraph 5, not paragraph 2, "I think we're in agreement on all but one paragraph [paragraph 5]." (R. at 1336.) CAAF has stated, "we cannot review waived issues at all because a valid waiver leaves no error for us to correct on appeal." United States v. Davis, 79 M.J. 329, 331 (C.A.A.F. 2020) (citation omitted); *see also* United States v. Ahern, 76 M.J. 194, 197 (C.A.A.F. 2017) ("[A] valid waiver leaves no error to correct on appeal."). And the 2021 amendment to Article 66(d), UCMJ, abrogated this Court's ability to pierce waiver as to errors associated with findings. United States v. Roberts, No. ACM 40608, 2025 CCA LEXIS 476, *4 (A.F. Ct. Crim. App. 30 September 2025) (unpub. op.) (citing United States v. George, No. ACM 40397, 2024 CCA LEXIS 224, *2-3 (A.F. Ct. Crim. App. 7 June 2024) (unpub. op.)). Therefore, Appellant has waived any arguable error regarding paragraph 2 and this Court cannot pierce that waiver.

2. Permission for statements in paragraph 5 of the VIS was not plain error

The military judge did not commit plain error when she permitted SSgt A.C. to read paragraph 5 of the VIS. As the military judge explained, in addition to the now-invalid theory of continuing course of conduct, paragraph 5 of the VIS was also directly related to the fraternization specification. (R. at 1341.)

Appellant's damaging of SSgt A.C.'s vehicles took place during the charged period of fraternization. (App. Ex. CXXVIII, p.1; Court Ex. A, p.1.) And as Appellant admitted, he used his violent outbursts and his position as an officer over her: "You were manipulated by a boyfriend who had power over you." (Pros. Ex. 1, Atch 14.) As trial defense counsel conceded, in withdrawing their objection to paragraph 2 of the VIS, it was relevant and permissible in the VIS for SSgt A.C. to write, "For quite a few years, I have been concerned about your inability to control

your anger. After I finally had enough, I tried to end our relationship. In response, you broke into my house…." (Id.)

Appellant's violent behavior during his relationship with SSgt A.C. prejudiced good order and discipline by, among other things, "compromising the respect of enlisted persons for the professionalism, integrity, and obligations of an officer." MCM, pt. IV, para. 101.c.(1); *see* United States v. Gonzalez, Dkt. No. 25-0032, 2025 CAAF LEXIS 761, *10-11 (C.A.A.F. 15 September 2025). Therefore, the military judge did not err, let alone plainly so, by permitting the VIS to reference facts and circumstances directly related to Appellant's fraternization and manipulation of SSgt A.C.

3. Even if permitting any statements within the VIS was error, it did not substantially influence Appellant's sentence

a. Appellant correctly conceded the first two factors weigh against finding prejudice

In Campos, CAAF stated that, because the case involved a guilty plea with a stipulation of fact, "the Government's case naturally is very strong, and the defense case is not." Id. at 317. Such was the case for Appellant, who concedes the first two factors weigh against finding prejudice. (App. Br. at 8.)

b. The VIS was not material to Appellant's sentence

Appellant cites the content of paragraph 5 of the VIS for which he reserved his objection on appeal, that is, regarding Appellant's damage to SSgt A.C.'s personal and rental vehicles. (App. Br. at 5 (citing R. at 1344).) He asserts the uncharged misconduct is so material that it is "dispositive," writing, "SSgt A.C.'s testimony described, violent, felonious conduct: breaking and entering, extensive property destruction, and vandalism with a weapon." (App. Br. at 8.) Appellant exaggerates the difference between the charged and uncharged misconduct. In actuality, the uncharged conduct was similar to, and arguably *less* egregious than, the charged conduct for

which he was sentenced. Doing damage to SSgt A.C.'s vehicles is not as serious as the charged crimes after entering her home of breaking a hole in her door and breaking a bottle of wine and wine glasses. The same would be true for the content of paragraph 2 of the VIS, if this Court were to consider it despite the United States's claim of waiver. SSgt A.C.'s statement -- that Appellant broke her kitchen cabinets and threw kitchen glassware to her backyard -- are similar to the facts of Appellant's convictions for property damage in her home. Therefore, any arguable error was harmless.

In Menard, this Court stated the lack of reference in sentencing argument to uncharged misconduct from a VIS demonstrated low materiality, because it limited the possibility the sentencing authority would give it undue weight. 2025 CCA LEXIS at *48-49. Moreover, the Court noted the prosecution's reference to victim impact was based upon charged misconduct alone. Id. at *49. Similar to Menard, the prosecution in Appellant's case only addressed the crimes for which he was charged in their sentencing argument, which covered 11 pages of trial transcript, without referring to the uncharged misconduct from the VIS even once. (R. at 1448-1458.)

Even if admission of all the contested portions of the VIS was error, their consideration by the court-martial members did not substantially influence the sentence, so it was harmless.

c. The VIS was not of a quality to influence Appellant's sentence

The fourth and final factor, that is, the quality of the evidence, weighs against finding harm to Appellant, because, as just mentioned, the prosecution did not mention the VIS in the sentencing argument other than in passing and regarding the charged offenses only (R. at 1448-49), trial defense counsel blunted any potential influence the VIS could have had, and the military judge limited how the court-martial members could consider the VIS.

As trial defense counsel argued in sentencing, SSgt A.C.'s VIS was not subject to the "crucible" of cross-examination and was not supported by any corroborating evidence (R. at 1462.), which properly reduced any impact from her unsworn statement. Moreover, the military judge's detailed instructions ensured the court-martial members understood their duty to independently weigh the credibility and significance of SSgt A.C.'s statement, and to not sentence Appellant for the uncharged misconduct in the VIS. (R. at 1478, 1479.) Court members are presumed to follow the military judge's instructions absent evidence to the contrary. United States v. Maebane, __ M.J. __, 2025 CAAF LEXIS 772, *27-28 (C.A.A.F. 18 September 2025) (quoting United States v. Taylor, 53 M.J. 195, 198 (C.A.A.F. 2000)).

Similarly, in Campos, in finding no harm to the appellant, CAAF stated:

> We also assess the quality of the accusations as low. The accusations were not sworn and were not tested by cross-examination. In addition, the accusations were very brief and contained little or no detail about the harm they may have caused. The military judge, accordingly, was unlikely to give them as much weight as he would have given to actual evidence or to more informative statements. In the light of these factors, we are convinced that the improper content of the unsworn statement did not substantially influence the sentence.

85 M.J. at 317.

Thus, the manner in which the prosecution, Appellant's trial defense, and military judge addressed the VIS more than sufficiently reduced or eliminated any concern about the quality of her statement. And Appellant's receipt of the minimum sentence of confinement available[5] demonstrates the court-martial members were not substantially influenced by the VIS. *See*

[5] The sentence of confinement for four months was the minimum in Appellant plea agreement. (App. Ex. CXXII, para. 3.c.)

Menard, 2025 CCA LEXIS at *49 (citing the imposition of half the maximum confinement available indicated no significant weight was ascribed to the VIS).

Each one of the offenses for which Appellant was convicted more than justify the sentence of a dismissal he received. Appellant's conduct – fraternizing, repeatedly and egregiously violating orders, using illegal substances and encouraging an enlisted member to use illegal substances – demonstrated a shocking disregard for military standards and expectations of a lieutenant colonel. He would have received a dismissal even if the contested portions of the VIS had not been read to the court-martial members. Thus, his assignment of error is without merit, and this Court should affirm the sentence.

II.

THE MILITARY JUDGE DID NOT ABUSE HER DISCRETION BY ACCEPTING APPELLANT'S GUILTY PLEA TO WILLFULLY DAMAGING PROPERTY, BECAUSE APPELLANT'S STATEMENTS DURING THE PROVIDENCE INQUIRY CONFIRMED, AND DID NOT NEGATE, THE ELEMENT OF SPECIFIC INTENT.

Additional Facts

In his stipulation of fact, Appellant admitted he caused physical injury to SSgt A.C.'s property "and he did so intentionally." (Pros. Ex. 1, para. 56.) He admitted, "[Appellant] was aware, when he hit his fist against the door, it was likely to cause damage." (Id., para. 59.)

During the guilty-plea providence hearing, the military judge instructed Appellant regarding the elements of the offense of willful destruction of property and relevant definitions, to include, "An act is done willfully if it is done intentionally or on purpose." (R. at 969.)

Appellant described the moment in which he damaged SSgt A.C.'s door:

> SSgt A.C. told me to leave her house. ... In my frustration, I hit my fist against the door to her mud room. … I didn't intend to necessarily punch a hole in the door but I was aware that my hitting

> my fist against the door was going to certainly damage it some – the door in some capacity. I was familiar with the door and the fact that it was not made of the best wood. I knew it would likely impact – the impact of my fist would cause damage to the door."
>
> * * *
>
> I didn't accidentally damage the door, I did it on purpose knowing that it belonged to [SSgt A.C.].

(R. at 972.)

The military judge followed up with additional questions of Appellant.

> MJ: Were your actions on that evening willful?
>
> APP: Yes, Your Honor.
>
> * * *
>
> MJ: Did you specifically intend to damage the door by hitting it with your fist or was it accidental?
>
> APP: Your Honor, I struck the door and any reasonable person could – would have assumed there would be some damage to the door striking the door, the way I did and I knew that. So, in that sense it was intentional. I didn't mean to punch a hole in the door but it was reasonable to assume I would have damaged the door by hitting it the way I did.

(R. at 975-76.)

Standard of Review

This Court reviews a military judge's decision to accept an accused's guilty plea for an abuse of discretion. United States v. Riley, 72 M.J. 115, 119 (C.A.A.F. 2013) (citing United States v. Inabinette, 66 M.J. 320, 322 (C.A.A.F. 2008)). In determining whether a military judge abused her discretion in accepting a guilty plea as provident, "an appellate court will not reverse that finding and reject the plea unless it finds a substantial conflict between the plea and the accused's statements." United States v. Garcia, 44 M.J. 496, 498 (C.A.A.F. 1996).

Law

"During a guilty plea inquiry[,] the military judge is charged with determining whether there is an adequate basis in law and fact to support the plea before accepting it." United States v. Forbes, 78 M.J. 279, 281 (C.A.A.F. 2019) (citation omitted). A plea is provident so long as the appellant was convinced of, and was able to describe, all the facts necessary to establish his guilt. United States v. Murphy, 74 M.J. 302, 308 (C.A.A.F. 2015) (internal quotations and citations omitted). The military judge may consider both the stipulation of fact and the inquiry with the appellant when determining if the guilty plea is provident. United States v. Hines, 73 M.J. 119, 124 (C.A.A.F. 2014) (citation omitted). However, Article 45(a), UCMJ, requires military judges to reject a plea of guilty "if it appears that [an accused] has entered the plea of guilty improvidently." "If an accused 'sets up matter inconsistent with the plea' at any time during the proceeding, the military judge must either resolve the apparent inconsistency or reject the plea." United States v. Garcia, 44 M.J. 496, 498 (C.A.A.F. 1996) (quoting Article 45(a), UCMJ). "Military judges often can 'resolve' apparent inconsistencies by asking the accused questions and receiving answers that show no actual inconsistency exists." United States v. Saul, __ M.J. __, No. 24-0098, 2025 CAAF LEXIS 578, at *7-8 (C.A.A.F. 21 July 2025) (citations omitted).

Analysis

Appellant challenges the providence of his guilty plea to the charges of destruction of non-military property valued less than $1,000. (App. Br. at 9-12) (citation omitted). He notes that the prosecution must prove a specific intent to damage property, not merely an intent to do the act that results in damage, and he cites Saul as a case "analogous" to his own. (App. Br. at 11.) However, Appellant's case is quite unlike Saul.

In Saul, the appellant repeatedly stated he did not intend to cause damage to the vehicle he struck with his hand, 2025 CAAF LEXIS 578 at *3. During Saul's plea providence hearing, he contradicted that he willfully damaged it, "I did not intend to damage the vehicle," and "I did not intend to break the windshield." Id. Additionally, Saul told the military judge he did not know the vehicle was damaged until his wife pointed it out, and he was surprised to learn of the damage. A at *3-4. There, the military judge incorrectly relied upon a "permissive inference" that to show that the intent to cause damage was established by evidence that such results flow "naturally and probably from the action that was taken." Id. at *4-5. CAAF found that the military judge never reconciled the appellant's initial statements that he did not intend to damage the vehicle, and the record never established that appellant understood the permissive inference to supersede his earlier statements about his lack of intent. Id. at *11.

In Appellant's, on the other hand, he repeatedly, affirmatively said he intentionally caused damage to SSgt A.C.'s door. There was no reliance upon an impermissible "permissive inference." That is, Appellant admitted in the stipulation of fact that he damaged the door "intentionally" and that, when he punched it, he was aware it was "likely to cause damage." (Pros. Ex. 1, paras. 56, 59.) Appellant swore under oath to the military judge that he was aware that punching the door "was going to certainly damage it some – the door in some capacity." (R. at 972.) Appellant knew that punching the poorly-manufactured door "would likely impact – the impact of my fist would cause damage to the door." (Id.) He denied the damage was accidental and confirmed it was "on purpose." (Id.) During follow-up with the military judge, Appellant admitted that he knew, like any reasonable person would know, that striking the door as he did would cause damage to it. (R. at 976.)

Unlike in Saul, Appellant was not surprised that he damaged the door; he admitted to knowing that damage would occur. And he never made any statement that suggested that he did not intend to damage the door. Appellant always understood that the damage was "intentional" because he knew that he would damage the door when he hit it with his fist.

While Appellant might not have intentionally caused a specific type of damage, that is, a hole in the door, he repeatedly admitted that he had the specific intent to cause some amount of damage to the door. There was no inconsistency for the military judge to resolve, and the plea was provident. Therefore, Appellant's assignment of error is without merit, and this Court should affirm the finding and sentence.

III.[6]

APPELLANT'S DISMISSAL WAS JUST AND NOT INAPPROPRIATELY SEVERE.

Standard of Review

This Court reviews sentence appropriateness *de novo*. United States v. Lane, 64 M.J. 1, 2 (C.A.A.F. 2006).

Law

The Court's authority to review a case for sentence appropriateness "reflects the unique history and attributes of the military justice system, [and] includes but is not limited to, considerations of uniformity and evenhandedness of sentencing decisions." United States v. Sothen, 54 M.J. 294, 296 (C.A.A.F. 2001) (citations omitted). The Court "assess[es] sentence appropriateness by considering the particular appellant, the nature and seriousness of the offense[s], the appellant's record of service, and all matters contained in the record of trial."

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[6] Appellant raises Issue III in his appendix pursuant to Grostefon.

United States v. Sauk, 74 M.J. 594, 606 (A.F. Ct. Crim. App. 2015) (*en banc*) (*per curiam*) (alteration in original) (citations omitted). Although the Court has discretion to determine whether a sentence is appropriate, it has no power to grant mercy. United States v. Nerad, 69 M.J. 138, 146 (C.A.A.F. 2010) (citation omitted).

Analysis

Appellant claims his dismissal was inappropriately severe, because of his two decades of dedicated military service. (App. Br., Appx., at 1a-5a.). He refers to the positive character letter and sentencing testimony from Major W.S., a character letter and sentencing testimony from a MSgt J.K., and a character statement from Lt Col A.C. (Id. at 1a-2a.) Appellant also mentions 34 good-character letters that he introduced at sentencing. (Id. at 4a.) However, Appellant raises no new facts or other issues that his defense counsel did not raise and argue before the court-martial members at his sentencing hearing. (*See, e.g.*, R. at 1465-67 (trial defense counsel sentencing argument, mentioning 34 good-character letters, including Lt Col A.C., and testimony of Maj W.S. and MSgt J.K.).)

It would have been reasonable if the court-martial members discounted to some degree the sentencing testimony of Maj W.S. and MSgt J.K., because they demonstrated they were unaware of numerous aggravating facts regarding Appellant's crimes and his background. (R. at 1400-01, 1406, 1409; 1416-18.)

Appellant claims, "It is an inappropriately severe punishment that disproportionately elevates a single, aberrational period of misconduct over a lifetime of exemplary performance, effectively erasing a distinguished career for offenses stemming from a single personal crisis." (App. Br., Appx., at 3a.) He tries to condense all his conduct into a "single" period of time and a

“single” personal crisis. (Id.) However, Appellant committed various crimes, numerous times, over multiple years.

From May 2018 to November 2021, Appellant had an intimate, sexual relationship with SSgt A.C., an enlisted Air Force member. (Pros. Ex. 1, paras. 10, 45.) He managed her OnlyFans and Instagram accounts, and he prepared her for semi-nude photo shoots that brought in approximately $40,000 in sales. (Id., para. 49.) When multiple enlisted members, over whom Appellant exercised authority, learned of Appellant’s intimate relationship with SSgt A.C., he asked them to keep it a secret. (Id., paras. 52-53.) During arguments with SSgt A.C., Appellant damaged her property. (Id., paras. 59-60.)

Appellant, an officer, convinced SSgt A.C., an enlisted member, to use cocaine, which he also wrongfully used more than 100 times over almost three years, including in public and around other people. (Pros. Ex. 1, Atch. 9; id., paras. 32-33, 36.) In August 2022, Appellant used cocaine and, when AFOSI searched his residence, they found cocaine and steroids. (Id., paras. 37-38.)

In June 2022, after Appellant’s relationship with SSgt A.C. had ended, Appellant’s commander ordered he have no contact with her. (Pros. Ex. 1, paras. 12, 15.) Appellant violated that order several hundred times over the next four months by contacting SSgt A.C. (Id., para. 20.) Then, after SSgt A.C. received a written military protective order, Appellant violated that order dozens of times over the next nine months, including at least 10 times after court-martial charges were preferred against him, including messages in which he pressured SSgt A.C. to modify what she would say to the AFOSI. (Id., paras. 21, 24-28; id., Atch. 9.)

The maximum sentences Appellant faced included confinement for as many as 14 years. (R. at 980.) That is, he could have been sentenced to six months for the two specifications of disobeying an order, five years each for the specifications of wrongful use and possession of

controlled substances, two years for the fraternization specification, and one year for the property damage specification; and he was subject to a dismissal for the drug specifications and the fraternization charge. (MCM, pt. IV, paras. 18.d(2), 50.d(1)(a), 101.d, and 45.d.) The court-martial members were lenient in sentencing Appellant far below the statutory maximum. He received only four months of confinement, which was the minimum amount he was facing pursuant to his plea agreement. (R. at 1473, 1494; App. Ex. CXXII, para. 3.c; Entry of Judgment.) Appellant's trial defense counsel had argued to the court-martial members that, if necessary to convince them to not sentence Appellant to a dismissal, they should consider "really driving it home" with Appellant by increasing the term of imprisonment above four months. (R. at 1464.) Clearly, the members rejected that trade-off suggested by trial defense counsel.

The sentence of a dismissal was justified and not greater than necessary to achieve the goals of incapacitation, retribution, specific deterrence, and general deterrence, in light of the nature and seriousness of the offenses, even considering any mitigating factors Appellant raised. Thus, his assignment of error is without merit, and this Court should affirm his sentence as entered.

IV.[7]

THIS COURT SHOULD NOT REMAND THE RECORD OF TRIAL, BECAUSE THE RECORD OF TRIAL IS COMPLETE AND IS NOT MISSING THE PORTION OF THE AUDIO RECORDING APPELLANT CLAIMS IS MISSING.

Additional Facts

The portion of the transcript Appellant cites as missing from the audio recording of the proceedings took place during a session pursuant to Article 39(a), UCMJ, during the government's cross-examination of SSgt A.C. Special Trial Counsel had notified the military judge, "I have

[7] Appellant raises Issue IV in his appendix pursuant to Grostefon.

structured this [examination of the witness] so that we can begin in open session and then I will flag when requesting a closed session, if that's alright." (R. at 194.) The military judge agreed to that procedure. (R. at 195.) After testimony in open session, Special Trial Counsel stated, "Your Honor, at this time I think it would make sense to move into a closed session." (R. at 218, lines 13-14.) The military judge responded, in the portion Appellant cites as missing from the audio recording:

> Very well. At this time the court will be in closed session to take up matters. Counsel, the victims' counsel, and their client may remain. Bailiff, please post up outside of the courtroom doors and stand outside of the courtroom doors. That means anyone who is not the victims' counsel or any experts associated with either side must leave the room.

(R. at 218, lines 15-18.) However, that portion of audio recording is in the record of trial, located at the beginning of the sealed recording named "US v. Szabo_20240228-0820."

Standard of Review

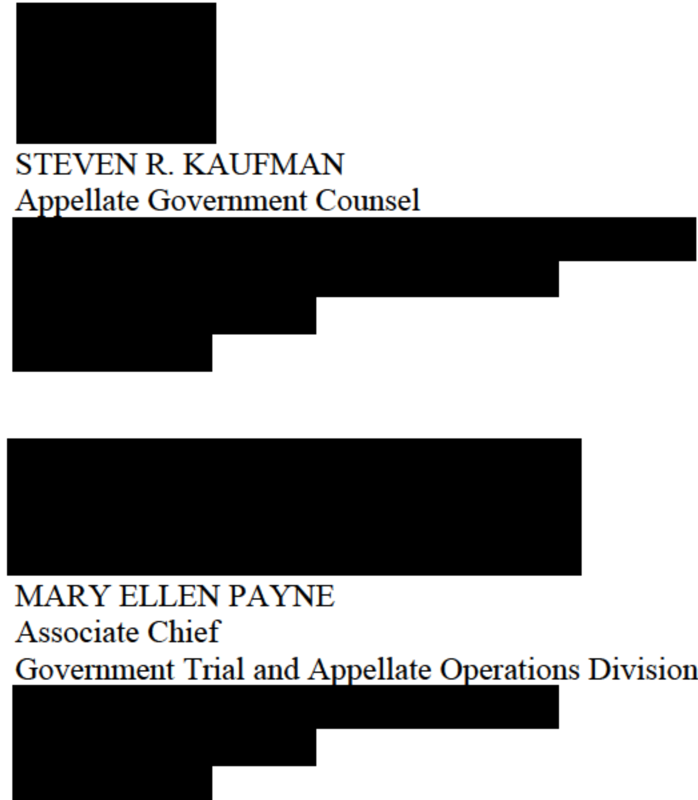
This Court reviews *de novo* whether a record of trial is complete. United States v. Davenport, 73 M.J. 373, 376 (C.A.A.F. 2014).

Law and Analysis

Because the portion of the audio recording Appellant claims is missing from the record of trial is, in fact, present in the record of trial, his assignment of error is without merit.

CONCLUSION

For these reasons, the United States respectfully requests that this Honorable Court deny Appellant's claims and affirm the findings and sentence in this case.

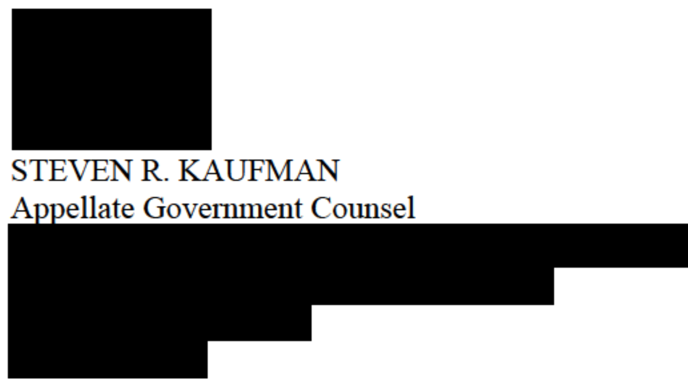


STEVEN R. KAUFMAN
Appellate Government Counsel

MARY ELLEN PAYNE
Associate Chief
Government Trial and Appellate Operations Division

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court, and the Air Force Appellate Defense Division (Capt Joyclin A. Webster) on 26 January 2026.



STEVEN R. KAUFMAN
Appellate Government Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

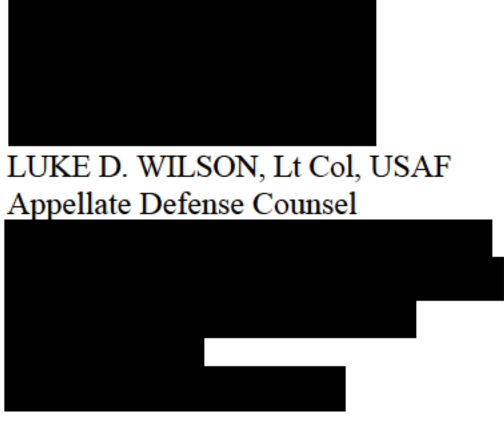
UNITED STATES *Appellee* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO** United States Air Force *Appellant*	))))))))	**APPELLANT'S MOTION FOR LEAVE TO FILE AND** Before Special Panel Case No. ACM 40690 29 January 2026

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23(d) of this Court's Rules of Practice and Procedure, Appellant moves for leave to file an Enlargement of Time (Out of Time) to file a Reply brief to the Government's Answer to the Appellant's Assignment of Errors. The motion for Enlargement of Time (Out of Time) has been filed contemporaneously with this motion.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant this motion

Respectfully Submitted,

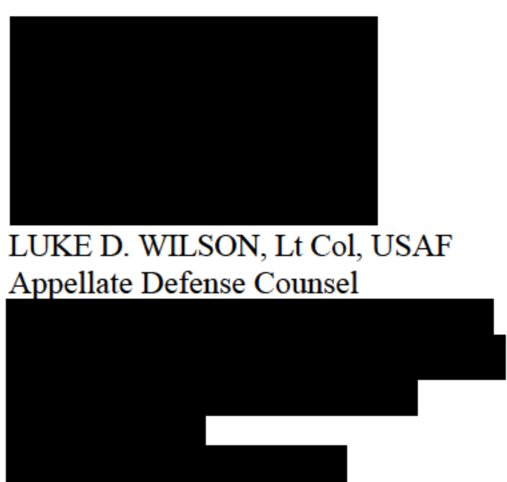


LUKE D. WILSON, Lt Col, USAF
Appellate Defense Counsel

Counsel for Appellant

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing and the Appendix were delivered by e-mail to the Court and served on the Government Trial and Appellate Operations Division on 29 January 2026.



LUKE D. WILSON, Lt Col, USAF
Appellate Defense Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	)))))))))	**REPLY BRIEF ON BEHALF OF APPELLANT** Before Special Panel No. ACM 40690 4 March 2026

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Appellant, Lieutenant Colonel (Lt Col) Giorgio A. Szabo, pursuant to Rule 18(d) of this Court's Rules of Practice and Procedure, files this Reply Brief to the United States' Answer to Assignments of Error, dated 26 January 2026. In addition to the arguments in his opening brief, filed on 29 December 2025, Appellant submits the following arguments.

I.

The military judge abused her discretion by overruling a Defense objection and allowing the complaining witness, in an unsworn statement, to recite allegations of serious uncharged misconduct.

Consistent with his pleas, Appellant was found guilty of two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); three specifications of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one specification of fraternization in violation of Article 134, UCMJ; and one specification of damaging nonmilitary property in violation of Article 109, UCMJ—"two broken wine glasses, a bottle of wine, and a mudroom door that Appellant punched during an argument." Pros. Ex. 1; R. at 900, 959, 971–72, 1009; Entry of Judgement.

During the sentencing portion of the trial, AC, with whom Appellant had a three-year consensual relationship that resulted in the fraternization charge, delivered a victim impact

statement. But AC did not limit her victim impact statement to the charges and specification Appellant was found guilty of. Instead, the military judge allowed AC to present an oral unsworn victim impact statement, in front of the members, detailing that Appellant "broke into my house on two separate occasions after I made it very clear [he was] no longer welcome." R. at 1343. She continued, "[he] entered my home without my permission, trashed my house, and destroyed a lot of my property," including "[breaking] my kitchen cabinets, punch[ing] a hole in my mudroom door, [and throwing] kitchen glassware [into] my backyard where I, a guest, or my dog could have hurt ourselves." *Id*. According to AC, this alleged conduct caused her "substantial emotional distress" and made her "forever fear for [her] safety." *Id* at 1344. AC further alleged that "[o]n other occasions during our relationship, [he] took [his] anger out on my personal vehicle and on the rental vehicle" by leaving "dents on the roof of my car with [his] fists," breaking the steering wheel "by repeatedly punching it," "slashed my tire with a steak knife," and "also punched and cracked the windshield of my rental vehicle." *Id*. AC linked these incidents to an increased insurance premium. *Id*.

AC's improperly admitted victim impact statement substantially influenced the adjudged sentence under *Campos*'s four factor test, and this issue was preserved for review rather than waived.

R.C.M. 1001(c)(2)(B) defines "victim impact" as "any financial, social, psychological, or medical impact on the crime victim directly relating to or arising from the offense of which the accused has been found guilty." R.C.M. 1001(c)(2)(B); App. Br. at 4–5. In *United States v. Campos*, the Court of Appeals for the Armed Forces (CAAF) held that "the definition of 'victim impact' in R.C.M. 1001(c)(2)(B) includes two distinct elements: *the offenses of which the accused has been found guilty* and the *impacts* of those offenses on the victim." 85 M.J. 310, 315 (C.A.A.F. 2025). "Both elements must be satisfied." *Id.*

AC's detailed descriptions of two alleged break-ins, extensive additional destruction inside her home, and knife-aided damage to her vehicle did not explain how the charged misconduct affected her "within the scope of both destruction of property specification or continuing course of conduct and/or the fraternization specification." R. at 1341. Instead, these statements portrayed Appellant's character as violent and dangerous in a way that falls outside of what R.C.M. 1001(c)(2)(B) and *Campos* identify as "victim impact." R.C.M. 1001(c)(2)(B); *Campos*, 85 M.J. at 315–16; R. at 1343–44. Under *Campos*, the military judge abused her discretion by improperly admitting uncharged accusations as victim impact.

A. Under *Campos*, the materiality and quality of AC's uncharged misconduct allegations show that the improperly admitted portions of her unsworn statement substantially influenced the sentence.

In determining whether improperly admitted evidence substantially influenced a sentence, this Court considers four factors: "(1) the strength of the Government's case; (2) the strength of the defense case; (3) the materiality of the evidence in question; and (4) the quality of the evidence in question." *Id*. at 343 (internal quotation marks omitted) (citation omitted). Although unsworn statements are not evidence, this Court has applied the same factors in considering whether improper aspects of unsworn statements caused prejudice. *Campos*, 85 M.J. at 314.

The contrast between this case and *Campos* matters when applying the materiality analysis. In *Campos*, the appellant pleaded guilty to three specifications of domestic violence, all describing egregious and violent conduct. He admitted that he "struck [the victim] in the face with his hand, kicked her shins, and pulled her hair." *Campos*, 85 M.J. at 312. Later, he "placed his arms over [her] throat," "strangl[ing] her," thereby impeding her breathing for approximately one minute, and " then bit the back of [her] neck with enough pressure to leave a visible bite mark." *Campos*, 85 M.J. at 313. CAAF assessed "the materiality of the accusations of uncharged

misconduct as low," explaining that the nonviolent conduct of "yelling, taking away a cell phone, and turning off the internet" and even the additional physical conduct "added little to the more egregious violent conduct of which he pleaded guilty." *Id*. at 317.

Here, the charged property-damage offense involved Appellant punching a hollow-core mudroom door, breaking a bottle of wine, and breaking wine glasses inside AC's home during an argument. Pros. Ex. 1, paras. 56, 59–60; *Charge Sheet*. By contrast, the uncharged misconduct AC described in her unsworn statement included allegations that Appellant broke into her house "on two separate occasions," "trashed" the house and "destroyed a lot of [her] property," breaking kitchen cabinets, throwing additional glassware into the backyard, "slashed [her] tire with a steak knife," and "punched and cracked the windshield of [her] rental vehicle." R. at 1343–44; App. Br. at 4–7. The detailed allegations of break-ins and extensive additional property destruction were far more egregious than the single property damage conviction limited to a door, a bottle of wine, and two wine glasses. Therefore, the uncharged conduct was likely to carry significant weight with the members because it was far more serious than the conduct for which Appellant was convicted, significantly impacting the sentence.

In assessing the quality of the evidence in *Campos*, the CAAF explained that it assessed the quality of the improper accusations in that case as "low" because they "were not sworn and were not tested by cross-examination," were "very brief and contained little or no detail about the harm they may have caused," and thus the military judge was "unlikely to give them as much weight as he would have given to actual evidence or to more informative statements." 85 M.J. at 317.

AC's unsworn statement in this case is qualitatively different from that in *Campos*. Unlike the "very brief" assertions in *Campos*, *id*., AC delivered a gripping and detailed narrative

account that went far beyond the single Article 109, UCMJ, specification, which involved only one mudroom door, one bottle of wine, and two wine glasses. R. at 1343–44; App. Br. at 4–8. Crucially, unlike in *Campos*, AC's victim impact was presented to a panel of members rather than to a military judge. These facts emphasize that both the quality of the evidence and the danger of unfair prejudice to Appellant were high.

AC's unsworn statement fell outside R.C.M. 1001(c)(2)(B) as interpreted in *Campos* because it described new, uncharged misconduct and painted Appellant as a violent, dangerous person rather than explaining the direct impact of the narrow Article 109, UCMJ, property offense and the fraternization specification. Given the stark disparity between the charged conduct and the far more serious accusations relayed live to the members, the materiality and quality of the improper statements were prejudicial.

B. Defense counsel's objection preserved the challenge to AC's victim-impact statement.

As AC began discussing uncharged misconduct in her statement, the defense counsel objected and requested an Article 39(a), UCMJ, session to discuss this issue outside of the presence of the members. R. at 1332, 1334. Defense then requested time to discuss "the proffer of the written victim impact statement" received during sentencing and to "discuss objections with the prosecution and victims' counsel off the record." R. at 1334.

The Government argues that Appellant "waived his prior objection to paragraph 2 of the [victim impact statement]" when, after the Article 39(a), UCMJ, session and an off-the-record discussion, trial defense counsel told the military judge, "Your Honor, I think we're in agreement on all but one paragraph," identifying paragraph 5 that begins with the phrase "[o]n other occasions during our relationship." Gov. Ans. at 8–9 (quoting R. at 1336. The Government is wrong.

While this sequence shows defense counsel narrowing the live dispute to paragraph 5 of the victim impact statement, it does not include any "no objection" statement to the remaining uncharged misconduct allegations in paragraph 2. R. at 1332–34, 1336. Rather, the statement "I *think* we're in agreement on all but one paragraph" cannot be read in a vacuum to erase the objection made just moments before to the very nature of the testimony being offered or without regard for the arguments actually made against the admission of the evidence. R. at 1336. (emphasis added). While only mentioning paragraph 5, Defense counsel's arguments on the objections addressed various parts of the victim impact statement. R. at 1337–38, 1340. In fact, during the argument on the objections, Defense counsel specifically addressed the information contained in the second paragraph of the victim impact statement. R. at 1337–38. The Defense counsel stated that he was not "really not even sure what some of these events are," noting that the only prior testimony at a motions hearing involved an alleged tire punctured "with a steak knife," and emphasizing that "all of these other incidents are entirely new." Id. The only paragraph of the victim impact statement that mentioned the knife or other uncharged incidents was paragraph 2 of the statement. R. at 1333–34.

In *United States v. Ahern*, the CAAF held that an appellant's "no objection" response constituted waiver where "there is no question that defense counsel had advance notice of the substance" of the challenged evidence, "that he reviewed the expected testimony, and that he considered the impact of the stipulation on his client's case." 76 M.J. 194, 198 (C.A.A.F. 2017) (alteration omitted) (quoting *United States v. Campos*, 67 M.J. 330, 333 (C.A.A.F. 2009)). The CAAF specifically noted that "[a]t trial the military judge presented defense counsel with an opportunity to voice objections to the expected testimony and counsel responded that he had no objections." *Id.*

In *Campos*, 67 M.J. 330, the CAAF emphasized that counsel had "advance notice of the substance of Dr. Arnold's testimony," had "reviewed the expected testimony," and, when asked by the military judge if he objected to the stipulation, answered, "'No, Your Honor,'" which the Court treated as an "intentional relinquishment" of appellate review. 67 M.J. at 332–33. Here, by contrast, a written proffer of the victim impact statement was provided to the Defense in connection with the sentencing portion of the trial; the Defense objected to it on the record as soon as AC began to describe the first alleged break-in and property destruction in her statement and asked for time to discuss objections off the record. R. at 1332–34. As the Defense counsel only received the victim impact statement during the sentencing portion of the trial, they never affirmatively told the military judge there were "no objections" to the victim impact statement after full advance notice and consideration. R. at 1332–34, 1336.

Here, there was no deliberate, advance-notice intentional relinquishment of Appellant's right to appeal as described in *Ahern* and *Campos*. *See Ahern*, 76 M.J. at 198 (treating defense counsel's express statement that he had "no objections" to the challenged evidence, after advance notice and review, as a knowing waiver that left "no error" to correct on appeal); *Campos*, 67 M.J. at 333 (finding waiver where counsel, having reviewed the expert's expected testimony in advance, responded "No, Your Honor" when asked if he objected to the stipulation, which the Court characterized as an "intentional relinquishment" of appellate review). Therefore, even if this Court finds a defect in how the objection was framed, it should, at most, consider the issue forfeited.

The military judge abused her discretion under R.C.M. 1001(c) by permitting the complaining witness to deliver a victim impact statement filled with allegations of uncharged

misconduct. The error was prejudicial and substantially influenced Appellant's sentence. As such, Appellant requests that this Court set aside the portion of his sentence requiring dismissal.

II.

The military judge abused her discretion by accepting Appellant's guilty plea to willfully damaging property, where Appellant's statements during the providence inquiry negated the essential element of specific intent.

During the providence inquiry in this case, Appellant described striking AC's mudroom door. He twice told the military judge that he "didn't intend to necessarily punch a hole in the door" and "didn't mean to punch a hole in the door." He explained that his conduct was intentional only "in that sense" that "any reasonable person" would have foreseen "some" damage. R. at 972, 975–76. He stated:

> In my frustration, I hit my fist against the door to her mud room . . . I didn't intend to necessarily punch a hole in the door[,] but I was aware that my hitting my fist against the door was going to certainly damage it some – the door in some capacity. I was familiar with the door and the fact that it was not made of the best wood. I knew it would likely impact – the impact of my fist would cause damage to the door.

R. at 972. He added, "I didn't accidentally damage the door, I did it on purpose knowing that it belonged to [AC]." R. at 972. Later, when the military judge asked whether he "specifically intend[ed] to damage the door by hitting it with [his] fist or was it accidental," Appellant answered:

> Your Honor, I struck the door and any reasonable person could – would have assumed there would be some damage to the door[,] striking the door, the way I did and I knew that. So, in that sense it was intentional. I didn't mean to punch a hole in the door[,] but it was reasonable to assume I would have damaged the door by hitting it the way I did.

R. at 975–76. Taken together, these answers describe Appellant as intending to hit the door while recognizing that "any reasonable person" would have expected "some" damage. *Id*. This falls short of "the specific intent of destroying or damaging property" under Article 109, UCMJ, as

interpreted in *Saul* and *Bernacki*. *See United States v. Saul*, 86 M.J. 30, 33 (C.A.A.F. 2025) (discussing *United States v. Bernacki*, 33 C.M.R. 173, 175–76 (C.M.A. 1963)).

In both *Saul* and this case, the accused differentiated between intending to strike an object and intending to cause the resulting damage that produced the Article 109, UCMJ, charge. *See Saul*, 86 M.J. at 32–33; R. at 972, 975–76. The parallels between the case and *Saul* are also present in how the military judge handled the inconsistency. In *Saul*, after the appellant's denials of intent to damage the windshield, the military judge asked the appellant, "'[D]o you agree that you smacking the windshield, a natural consequence of that action is that the windshield will spider out?' Appellant answered: 'Yes, Your Honor.'" 86 M.J. at 32. The appellant, however, did not retract or modify his earlier statements that he did not intend to damage the windshield." *Id.* The CAAF held that "[e]ven if the military judge could lawfully infer that Appellant acted willfully and wrongfully based on his knowledge of the natural and probable consequences of his action, that inference substantially conflicts with [a]ppellant's repeated statements that he did not intend to damage the windshield" and that "[n]othing in the plea inquiry resolved this substantial inconsistency." *Id.* at 34–35.

As in *Saul*, Appellant did not retract or modify his earlier statements disclaiming an intent to cause the specific damage charged and did not indicate any change in his understanding of intent. *See* R. at 971–72, 975–79; App. Br. at 10–11; Gov. Ans. at 13–17. By saying "in that sense it was intentional" immediately after explaining what "any reasonable person" would have assumed about damage from striking the door, he framed his state of mind in terms of foreseeability rather than a purpose to damage the property. R. at 975–76. *Saul* explains that a permissive inference based on "natural and probable consequences" cannot, by itself, resolve an accused's express denial of intent where "nothing in the plea inquiry resolved this substantial

inconsistency" and the accused "never retracted or modified his express statements" about his lack of intent. *Saul*, 86 M.J. at 34–35.

Appellant's repeated sworn statements that he did not intend to punch a hole in the door, coupled with his framing of "intent" solely in terms of what a reasonable person would have foreseen, created a substantial and unresolved conflict with the specific-intent element of Article 109, UCMJ. Under Article 45(a), UCMJ, and *Saul*, the military judge was required to reject the plea or resolve that inconsistency, and her failure to do so was an abuse of discretion that invalidates the providence of the plea.

Appellant requests that this Court set aside the finding of guilt as to the Second Additional Charge and its specification.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 4 March 2026.

Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	**No. ACM 40690**
Appellee	)	
	)	
v.	)	
	)	**ORDER**
Giorgio A. SZABO	)	
Lieutenant Colonel (O-5)	)	
U.S. Air Force	)	
Appellant	)	**Special Panel**

Having reviewed the record, the court notes the military judge found Appellant guilty, in accordance with his pleas, of violating Article 109, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 909, by, *inter alia*, "willfully and wrongfully damag[ing] a door by punching said door with his fist . . . ." The stipulation of fact and the military judge's explanation of the elements of this offense during her providency inquiry with Appellant described the door, which was attached to AC's house, as "personal property."

"Real property" generally refers to "[l]and, and generally whatever is growing upon or affixed to land." *Property*, BLACK'S LAW DICTIONARY (6th ed.); see *also* MERRIAM-WEBSTER, *Property — real property*, https://www.merriam-webster.com/dictionary/property#legalDictionary (last visited 11 Mar. 2026) (defining "real property" as "property consisting of land, buildings, crops, or other resources still attached to or within the land or improvements or fixtures permanently attached to the land or a structure on it"). "Personal property" generally includes, "[i]n a broad and general sense, everything that is the subject of ownership, not coming under denomination of real estate." *Property*, BLACK'S LAW DICTIONARY (6th ed.); *see also* MERRIAM-WEBSTER, *Property — personal property*, https://www.merriam-webster.com/dictionary/property#legalDictionary (last visited 11 Mar. 2026) (defining "personal property" as "property (as a vehicle) that is movable but not including crops or other resources still attached to land: property other than real property").

The elements of an offense under Article 109, UCMJ, as set forth in the Manual for Courts-Martial, distinguish between "willfully or recklessly wast[ing] or spoil[ing]" real property, and "willfully or wrongfully" damaging or destroying personal property. *See Manual for Courts-Martial, United States* (2019 ed.), pt. IV, ¶ 45.b.

A plea of guilty to damaging "personal property" may be improvident where the property in question was, in fact, real property. *See United States v.*

McCameron, No. ACM 40089, 2022 CCA LEXIS 663, at *12–14 (A.F. Ct. Crim. App. 17 Nov. 2022) (unpub. op.), *aff'd on other grounds*, 83 M.J. 442 (C.A.A.F. 2023).

"The convening authority may withdraw from a plea agreement . . . if findings are set aside because a plea of guilty entered pursuant to the agreement is held improvident on appellate review." Rule for Courts-Martial 705(e)(4)(B).

This court specifies the following issue for supplemental briefing in the above-captioned case:

> WHETHER THE DOOR APPELLANT PLEADED GUILTY TO DAMAGING WAS REAL PROPERTY RATHER THAN PERSONAL PROPERTY; IF SO, WHETHER APPELLANT'S PLEA OF GUILTY TO DAMAGING THE DOOR WAS IMPROVIDENT BECAUSE THE DOOR CONSTITUTED REAL PROPERTY RATHER THAN PERSONAL PROPERTY; AND IF SO, WHAT RELIEF, IF ANY, IS APPROPRIATE?

Accordingly, it is by the court on this 11th day of March, 2026,

ORDERED:

Appellant and Appellee shall file briefs on the specified issue with the court **not later than 25 March 2026**. No further briefs will be permitted without leave from the court.

FOR THE COURT

CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES *Appellee,* v. Lieutenant Colonel (O-5) **GIORGIO A. SZABO,** United States Air Force, *Appellant.*	))))))))))	**CONSENT MOTION FOR ENLARGEMENT OF TIME OUT OF TIME TO FILE SPECIFIED ISSUE BRIEF** Before Special Panel No. ACM 40690 25 March 2026

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rules 23 and 24 of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to submit the brief on the specified issue. Appellant requests, and the Government consents to, an enlargement for a period of three days, which will end on **28 March 2026**.

There is good cause for the filing of this motion out of time and to grant the motion because it is due to a medical emergency of Appellant's assigned counsel, Captain Joyclin Webster. Undersigned counsel is submitting this motion in his capacity as Captain Webster's supervisor.

The record of trial was docketed with this Court on 30 September 2024. From the date of docketing to the present date, 541 days have elapsed. On the date requested, 544 days will have elapsed.

On 3 May 2024, Appellant was tried and sentenced by a panel of officer members sitting as a general court-martial at Joint Base Andrews Naval Air Facility Washington, Maryland. Record of Trial (ROT), Vol. 1, Entry of Judgment, dated 17 June 2024. Consistent with his pleas, Appellant was found guilty of one charge and two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); one charge with three specification of

wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one charge and one specification of fraternization in violation of Article 134, UCMJ; a second additional charge with one specification of damaging nonmilitary property in violation of Article 109.[1] *Id*. The members sentenced Appellant to be reprimanded, confined for four months, and dismissed from the service. R. at 1494.

In accordance with Appellant's request, the Convening Authority deferred Appellant's automatic forfeitures starting fourteen days from the date the sentence was adjudged until the date the military judge signed the entry of judgement. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A Szabo*, dated 29 May 2024. Commencing the day the military judge signed the entry of judgement, the automatic forfeitures were waived for a period of four months, release from confinement, or expiration of term of service, whichever was soonest. *Id*. The total pay and allowance were directed to by paid to the ex-spouse of Appellant for the benefit of his dependent. *Id*.

The Convening Authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. Lieutenant Colonel Giorgio A. Szabo*, dated 29 May 2024.

The ROT is 18 volumes and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined.

Appellant's assignment of errors brief was submitted on 29 December 2025. The Government's answer brief was filed on 26 January 2026. Appellant's reply brief was filed on 4 March 2026.

[1] The remaining charges and specifications were withdrawn and dismissed with prejudice. *Id*

On 11 March 2026, this Court ordered briefing on a specified issue, with a filing deadline of 25 March 2026. Captain Webster is the sole counsel authoring the brief on the specified issue and has completed drafting the brief on the specified issue. Captain Webster is unable to complete the brief or submit it by the current deadline due to her medical condition. She was transported from her duty station by ambulance to receive medical care on the afternoon of 25 March 2026.

Captain Webster is currently assigned to eleven cases. No case has priority over the present case. Further delays are not presently anticipated, but that could change depending on the assessment of Captain Webster's medical condition.

Due to the emergent nature of this request and its timing, undersigned counsel has been unable to consult with Appellant. Per Captain Webster's earlier representations to the Court, Appellant has been advised on his right to a timely appeal, had been previously provided an update of the status of Captain Webster's progress on Appellant's case, had been consulted with regard to enlargements of time, and had agreed with necessary requests for enlargements of time.

Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

ALLEN S. ABRAMS, Lieutenant Colonel, USAF
Deputy Chief
Air Force Appellate Defense Division

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 25 March 2026.

Respectfully submitted,

ALLEN S. ABRAMS, Lieutenant Colonel, USAF
Deputy Chief
Air Force Appellate Defense Division

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	**SPECIFIED ISSUE BRIEF**
Appellee,	)	**ON BEHALF OF APPELLANT**
	)	
v.	)	Before Special Panel
	)	
Lieutenant Colonel (O-5)	)	No. ACM 40690
GIORGIO A. SZABO,	)	
United States Air Force,	)	30 March 2026
Appellant.	)	

TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to this Court's 11 March 2026 specified-issue order, Lieutenant Colonel Giorgio A. Szabo, Appellant, respectfully submits the following arguments.

Specified Issue

WHETHER THE DOOR APPELLANT PLEADED GUILTY TO DAMAGING WAS REAL PROPERTY RATHER THAN PERSONAL PROPERTY; IF SO, WHETHER APPELLANT'S PLEA OF GUILTY TO DAMAGING THE DOOR WAS IMPROVIDENT BECAUSE THE DOOR CONSTITUTED REAL PROPERTY RATHER THAN PERSONAL PROPERTY; AND IF SO, WHAT RELIEF, IF ANY, IS APPROPRIATE.

Statement of Facts

Consistent with his pleas, Appellant was found guilty of two specifications of disobeying an order in violation of Article 92, Uniform Code of Military Justice (UCMJ); three specifications of wrongful use of a controlled substance in violation of Article 112(a), UCMJ; one specification of fraternization in violation of Article 134, UCMJ; and one specification of damaging nonmilitary property in violation of Article 109, UCMJ—"two broken wine glasses, a bottle of wine, and a mudroom door that Appellant punched during an argument." Pros. Ex. 1; R. at 900, 959, 971-72, 1009; Entry of Judgement.

In a signed stipulation of fact, he admitted that the property damaged included "two broken wine glasses, a bottle of wine, and a mudroom door that Appellant punched during an argument." Pros. Ex. 1. The stipulation stated that he caused physical injury to AC's property "and he did so intentionally," and that he was "aware, when he hit his fist against the door, it was likely to cause damage." *Id*.

During the providence inquiry, the military judge instructed Appellant that "[a]n act is done willfully if it is done intentionally or on purpose." R. at 969. When asked to describe his conduct, Appellant stated: "[AC] told me to leave her house. In my frustration, I hit my fist against the door to her mud room." R. at 979. He further explained:

> I didn't intend to necessarily punch a hole in the door but I was aware that my hitting my fist against the door was going to certainly damage it some - the door in some capacity. I was familiar with the door and the fact that it was not made of the best wood. I knew it would likely impact - the impact of my fist would cause damage to the door.

Id. In describing the event, Appellant located the door as "the door to her mud room" inside AC's house. *Id*. The charge and stipulation treated the door as part of the property at her residence, along with the wine and glassware. Charge Sheet, Pros. Ex. 1.

Law

This Court reviews a military judge's decision to accept a guilty plea for an abuse of discretion and will set aside a plea only when there is a substantial basis in law or fact for questioning the plea. *United States v. Dentice*, 2014 CCA LEXIS 589, at *2-3 (A. Ct. Crim. App. Aug. 15, 2014) (citing *United States v. Schell*, 72 M.J. 339, 345 (C.A.A.F. 2013); *United States v. Inabinette*, 66 M.J. 320, 322 (C.A.A.F. 2008)). The "substantial basis" test asks whether the record raises a substantial question about either the factual basis of the plea or the law underpinning it. *Id.* "It is an abuse of discretion for a military judge to accept a guilty plea without an adequate factual basis to support it," or if the ruling rests "on an erroneous view of

the law." *United States v. Weeks*, 71 M.J. 44, 46 (C.A.A.F. 2012) (citing *Inabinette*, 66 M.J. at 321-22). A plea may be rejected on appeal if there is a "substantial conflict between the plea and the accused's statements." *United States v. Garcia*, 44 M.J. 496, 498 (C.A.A.F. 1996).

A guilty plea is provident only if the record shows that the accused understands the nature of the offense and how the law relates to the facts. *United States v. Medina*, 66 M.J. 21, 26 (C.A.A.F. 2008) (citing *United States v. Care*, 18 C.M.A. 535, 538-39, 40 C.M.R. 247, 250-51 (1969)). Article 45(a), UCMJ, provides that if an accused "sets up matter inconsistent with the plea" at any point during the proceeding, "a plea of not guilty shall be entered in the record." 10 U.S.C. art. 45(a). When such an inconsistency appears, the military judge "must either resolve the apparent inconsistency or reject the plea." *Garcia*, 44 M.J. at 498.

Article 109, UCMJ, "proscribes two related but different offenses." *Dentice*, 2014 CCA LEXIS 589, at *4 (quoting *United States v. Weaver*, 48 C.M.R. 856, 856 (A.C.M.R. 1974)). "One offense relates to the willful or reckless waste or spoliation of the real property of another. The other offense relates to the willful and wrongful destruction of the personal property of another." *Id*. Article 109, UCMJ, covers "wrongful acts of voluntary destruction of or permanent damage to real property" for real property, while for personal property it proscribes the willful and wrongful destruction or damage of property, where "[d]amage consists of any physical injury to the property." *Dentice*, 2014 CCA LEXIS 589, at *4-6; *United States v. McCameron,* 2022 CCA LEXIS 663, at *9 (A.F. Ct. Crim. App. Nov. 17, 2022). This Court has further explained that, for personal property, "'damage' consists of any physical injury to the property, to include any change to the condition of the personal property that renders it, at least temporarily, useless for its intended purpose." *United States v. Jeter*, 74 M.J. 772, 76 (A.F. Ct. Crim. App. 2015).

Argument

A. Appellant's plea was improvident because he was charged with damaging personal property, while his alleged actions constituted destruction of real property.

The specification in this case alleged that Appellant "willfully and wrongfully" damaged nonmilitary property valued at less than $1,000, and the stipulation identified that property as "two broken wine glasses, a bottle of wine, and a mudroom door." Charge Sheet. The specified issue order noted that the door "was attached to AC's house," and explains that "real property" generally refers to "land, and generally whatever is growing upon or affixed to land," including "property consisting of land, buildings, crops, or other resources still attached to or within the land or improvements or fixtures permanently attached to the land or a structure on it," while "personal property" is "movable" property "not coming under denomination of real estate." Specified Issue Order at 1-2.

In *Dentice*, the Army Court concluded that "an interior wall of on-post quarters [was] real, not personal property." 2014 CCA LEXIS 589, at *6-7 (citing *Black's Law Dictionary* 1337 (9th ed. 2009). The court also found the plea improvident as the military judge instructed the appellant that he was pleading guilty to damaging personal property rather than real property and failed to explain that, for real property, the Government had to prove permanent damage. *Id.* In *McCameron*, this Court concluded that the wall of a rental home was real property and thus the military judge erred when he instructed the incorrect theory of liability—which related to personal property. 2022 CCA LEXIS 663, at *8-9. Therefore, this Court set aside the Article 109, UCMJ, conviction as the plea and instructions used the personal property "physical injury" standard instead of the "destruction of or permanent damage" to real property standard. *Id*. Those decisions show that a mudroom door that was attached to AC's house falls within the real property portion of Article 109, UCMJ, rather than the personal property portion.

Appellant's factual narrative focused on striking a fixture of the house that, under *Dentice* and *McCameron*, would be categorized as real property. R. at 969, 972. But the charge and instructions provided to Appellant treated the mudroom door as nonmilitary personal property. R. at 966-67. The military judge did not instruct Appellant that to be guilty of damaging real property, the damage needed to be permanent. *Id*. That mismatch raises substantial questions: (1) whether Appellant understood "the nature of the offense" to which he pleaded, and (2) whether, under Article 45(a), UCMJ, he "set[s] up matter inconsistent with the plea" that the military judge was required to resolve or reject. As *Dentice*, the Appellant in this case, "misunderstood the nature of the offense to which he pleaded guilty. 2014 CCA LEXIS 589, at *6 (citing *Medina*, 66 M.J. at 26). Because Appellant's statements never established that he permanently damaged the door, the military judge was required either to resolve the inconsistency or to reject the plea. The military judge did neither. Therefore, Appellant's plea was improvident.

B. The military judge's acceptance of the improvident plea prejudiced Appellant by lowering the criminal liability needed to sustain a conviction for the specification.

Article 109, UCMJ, puts a mudroom door fixed in the frame of AC's house on the real property side of the statute. Therefore, it is within the "wastes" and "spoils" theory that requires "voluntary destruction of or permanent damage to real property," rather than as personal-property where "damage consists of any physical injury to the property." MCM pt. IV, ¶ 45.c(1)-(2). Treating that door as "personal property" for purposes of the elements and instructions effectively lowered the legal threshold for criminal liability from permanent injury to the structure to any physical injury at all.

In that respect, this case looks much like *McCameron*, where the appellant "admitted to damaging the wall of his rental home," and testified that he repaired the wall himself. 2022 CCA LEXIS 663, at *8-9. Additionally, "the move-out inspector noted no damage to the wall," so

there was no evidence of permanent injury to the real property. *Id*. Here, Appellant similarly provided AC funds to ensure that the mudroom door was repaired. R. at 980. Like the repaired wall in *McCameron*, this shows that any harm to the structure was temporary and cured, underscoring how treating the door as personal property circumvented the Article 109, UCMJ, requirement that real property must be destroyed or permanently damaged. *Id.*

Here, the facts introduced at findings do not establish that the mudroom door was destroyed. Appellant acknowledges that he gave AC "approximately $100 to *repair* the door." R. at 972. (emphasis added). It was clear that prior to sentencing, the military judge was operating under the understanding that the door was repaired as she asked Appellant, "How much did it cost to *repair* her door?" R. at 977. (emphasis added). It was only after Appellant was convicted of the offense by the military judge that AC told the members that "[Appellant] paid for the door but I was left with having to hang it, having to replace it." R. 1296. When Appellant's trial defense counsel asked about the door simply being "rehung," AC did not mention the door being destroyed. R. at 1327. Further, the phrase "rehung," rather than "replaced," used by the defense counsel, seems to indicate that at least three key individuals at the trial believed the door was repaired. Therefore, the evidence in the record does not prove beyond a reasonable doubt that the door was permanently damaged.

As such, Appellant's plea was improvident and should be set aside.

C. As Appellant's plea was improvident, his sentence should be reassessed and the dismissal set aside.

Under *United States v. Winckelmann*, the Court of Appeals for the Armed Forces gave "illustrative, but not dispositive, points of analysis" for Courts of Criminal Appeals to consider when answering the question of whether a case can undergo a sentence reassessment or needs to be sent back for a rehearing. 73 M.J. 11, 15-16 (C.A.A.F. 2013).

On the first factor, is whether there was a "dramatic change[] in the penalty landscape and exposure." *Id*. at 15. In *McCameron*, this Court expressly found that "there is not a dramatic change in the penalty landscape" because the military judge had imposed only nominal fines for the two Article 109, UCMJ, specifications, all confinement time was tied to two assault specifications (including pointing a handgun at the victim), and the convening authority's reprimand referenced only the assaults. *McCameron*, 2022 CCA LEXIS 663, at *14-16. This showed that the judge and convening authority both viewed the assaults as the gravamen of the case. *Id*. Here, by contrast, the Article 109, UCMJ, specification is the only offense that framed Appellant as physically attacking AC's home by punching the mudroom door. The specification carried with it AC's victim-impact narrative about Appellant "punch[ing] a hole in my mudroom door" and other alleged destruction at her home and property, which the members heard in full during sentencing. R. at 1343-44. Removing the only conviction that directly corresponds to that violent, home-focused narrative changes the sentencing picture in a way that was not present in *McCameron*, where the property damage was peripheral to much more egregious assaultive conduct.

The second factor looks at whether the accused was sentenced by members or by a military judge alone. *Winckelmann*, 73 M.J. at 15-16. In *McCameron*, this Court emphasized that Appellant had elected to be sentenced by the military judge and the court of appeals could "reliably determine" what sentence the military judge would have imposed, thereby supporting a confident reassessment. *McCameron*, 2022 CCA LEXIS 663, at *14-16. Here, Appellant was sentenced by a panel of officers, who adjudged dismissal, four months' confinement, and a reprimand. R. at 1494. Under *Winckelmann*, that difference matters in the sentencing forum because it is harder for this Court to be sure what a particular panel of officers would have done

at sentencing if the Article 109, UCMJ, conviction for the door, along with the associated victim impact narrative, had not been part of the case.

The third factor asks "[w]hether the nature of the remaining offenses capture the gravamen of criminal conduct included within the original offenses and, in related manner, whether significant or aggravating circumstances addressed at the court-martial remain admissible and relevant to the remaining offenses." *Winckelmann*, 73 M.J. at 15-16. In *McCameron*, this Court found that, even after setting aside the wall-damage specification, "the remaining offenses substantially capture the scope of the original charged offenses" because the assaults against FM, including "assaulting FM with an unloaded firearm," were always the central misconduct, and the fines imposed for the damage to the wall and phone showed the judge treated those counts as relatively minor. 2022 CCA LEXIS 663, at *14-16.

Here, the remaining offenses are fraternization with an enlisted member, wrongful use of cocaine, possession of steroids, and repeated violations of no contact and protective orders, all serious but non-violent offenses that did not involve physical damage to AC's home or property. Charge Sheet; Pros. Ex. 1. The Article 109, UCMJ, conviction for punching the mudroom door is the only count that directly tied Appellant's criminal liability to physical damage to AC's residence, and the Government used that property count as a foothold for admitting AC's detailed, emotionally charged allegations about break-ins and extensive additional destruction in her home that Appellant was never charged or convicted of. R. at 1343-44. Without the Article 109, UCMJ, charge, AC's violent home invasion narrative would have been an improper unsworn victim impact and would likely not have been put before the members.

The fourth factor considers whether the remaining offenses are of the type that appellate judges are "familiar with" such that they "can reasonably determine what sentence would have

been imposed at trial." *Winckelmann*, 73 M.J. at 16. This Court is familiar with the remaining offenses in which Appellant was convicted.

Absent the Article 109, UCMJ, conviction and the associated unsworn victim-impact statements, the *Winckelmann* factors should give this Court strong reason to doubt that a panel of officer members would have imposed a dismissal in this case.

Therefore, Appellant requests that this Court set aside the finding of guilt as to the Second Additional Charge and its specification and reassess Appellant's sentence, setting aside the dismissal.

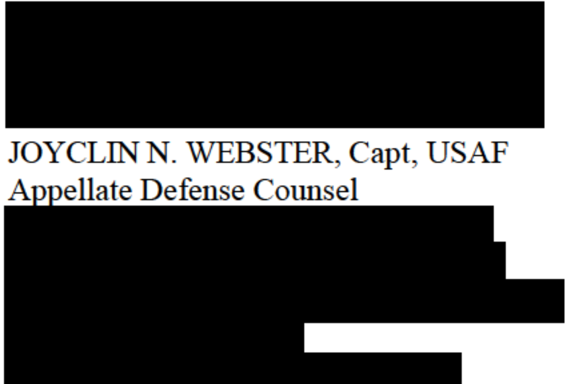
Respectfully submitted,

JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 30 March 2026.

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF
Appellate Defense Counsel

UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS

UNITED STATES	)	**No. ACM 40690**
Appellee	)	
	)	
v.	)	
	)	**ORDER**
Giorgio A. SZABO	)	
Lieutenant Colonel (O-5)	)	
U.S. Air Force	)	
Appellant	)	**Special Panel**

Upon review of the record of trial in the above-captioned case, this court discovered two closed session audio discs were not ordered sealed by the military judge, but should have been sealed. *See* Rule for Courts-Martial 1113 (*Manual for Courts-Martial, United States* (2019 ed.)). However, the military judge did order sealed the corresponding transcript pages to the closed sessions. The Clerk of Court will ensure the two closed session audio discs are properly sealed in the record with the court.

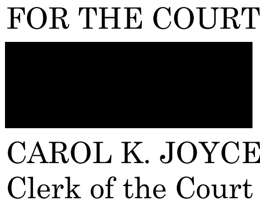
Accordingly, it is by the court on this 23d day of April, 2026,

ORDERED:

The Government shall take all steps necessary to ensure that the two closed session audio discs in the possession of any government office, Appellant, or any other known unauthorized copy, be retrieved and destroyed,[1] with the following exception.

Appellate government counsel and appellate defense counsel may retain copies of the closed session audio discs in their possession until completion of our Article 66, UCMJ, 10 U.S.C. § 866, review of Appellant's case, to include the period for reconsideration in accordance with A.F. CT. CRIM. APP. R. 31. After which, counsel shall destroy any retained copies of these discs.

FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

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[1] The base legal office may maintain a sealed copy in accordance with Department of the Air Force Manual 51-203, *Records of Trial*, ¶ 9.3.6 (21 Apr. 2021).

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' SUPPLEMENTAL
Appellee,	)	BRIEF
	)	
v.	)	Before Special Panel
	)	
	)	
Lieutenant Colonel (O-5)	)	No. ACM 40690
GIORGIO A. SZABO,	)	
United States Air Force	)	
Appellant.	)	25 March 2026

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

ISSUE PRESENTED

WHETHER THE DOOR APPELLANT PLEADED GUILTY TO DAMAGING WAS REAL PROPERTY RATHER THAN PERSONAL PROPERTY; IF SO, WHETHER APPELLANT'S PLEA OF GUILTY TO DAMAGING THE DOOR WAS IMPROVIDENT BECAUSE THE DOOR CONSTITUTED REAL PROPERTY RATHER THAN PERSONAL PROPERTY, AND IF SO, WHAT RELIEF, IF ANY, IS APPROPRIATE?

STATEMENT OF CASE

The Government generally agrees with Appellant's statement of the case.

STATEMENT OF FACTS

Facts

From May 2018 to November 2021, Appellant was in an intimate, sexual relationship with AC, an enlisted Air Force member. (Pros. Ex. 1, paras. 10, 45.) In November of 2021, Appellant asked a friend to drop him off at AC's house to resolve a prior argument after a night of drinking. (R. at 971.) Appellant then entered AC's home using a door code previously provided. (Id.) After Appellant called AC and she indicated she was not returning home that

evening, the parties began arguing. (R. at 971-972.) AC then told Appellant to leave her home and shortly thereafter, he "hit [his] fist against the door to her mud room" using a "moderate amount of force" and damaged the door by placing a hole in the door. (R. at 972; Pros. Ex. 1, paras. 59.) During the Care inquiry, Appellant testified, "I was familiar with the door and the fact that it was not made of the best wood. I knew . . . the impact of my fist would cause damage to the door." (R. at 972; Pros. Ex. 1, para. 59; Pros. Ex. 1, Attachment 18.) The next day, Appellant told AC that he damaged her door and gave her "approximately $100 to repair the door." (R. at 972; R. at 977.) Due to the damage caused, AC had to replace the entire door. (R. at 1296; R. at 1327.)

On 27 2024 April, shortly before trial, Appellant was served the second additional charge (the relevant specification).[1] (R. at 851.) On 30 April 2024, Appellant entered into a Stipulation of Fact. (Pros. Ex. 1.) Paragraph 54 in the Stipulation of Fact, states, in relevant part:

> [Appellant] did, at or near Anne Arundel, Maryland, between on or about 1 June 2019 and an or about 30 August 2022, on divers occasions, *willfully and wrongfully damage a door by punching said door with his fist* and a bottle and two glasses by slamming said bottle and two glasses against a counter with his hand, the amount of said damage being in the sum of less than $1,000.00, the property of [AC].

(Pros. Ex. 1, para. 54.) Paragraph 55, states in relevant part:

> ***

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[1] SECOND ADDITIONAL CHARGE: Violation of the UCMJ, Article 109

> [Appellant] did, at or near Anne Arundel, Maryland, between on or about 1 June 2019 and an or about 30 August 2022, on divers occasions, willfully and wrongfully damage a door by punching said door with his fist and a bottle and two glasses by slamming said bottle and two glasses against a counter with his hand, the amount of said damage being in the sum of less than $1,000.00, the property of [AC].

> a. At or near Anne Arundel, Maryland, between on or about 1 June 2019 and an or about 30 August 2022, on divers occasions, [Appellant] *willfully and wrongfully damage certain personal property, that is a door,* a bottle, and two glasses, by punching the door with his fist and slamming the bottle and two glasses against a counter with his hand;
>
> ***

(Id.) Unlike paragraph 55, paragraph 54 contains no reference to "personal property."[2] (Id.) Prior to discussing the specification during the Care inquiry, the military judge informed Appellant of her intent to use the flyer when asking questions during the Care inquiry. (R. at 878.) The military judge clarified, "so my thought process here is, there could be a point at which some portion of the [] guilty plea inquiry is presented to the members. And what I wanted to do is make sure that when they receive the flyer . . . that when I refer to a charge and specification with you on the record, it's the same as what they're seeing on the flyer." (R. 878.-879.) Appellant confirmed he understood. (Id.) During the Care inquiry, while reading from the *flyer*, the military judge stated:

> MJ: Okay. [Appellant] turning to the flyer to what is marked as Charge IV and its Specification. There you have pled guilty to damaging non-military property [] in violation of Article 109, Uniform Code of Military Justice. The elements of that offense are:
>
> 1) That at or near Anne Arundel, Maryland, on or about – between on or about 1 June 2019 and on or about 30 August 2022, on divers occasions, you willfully and wrongfully damaged *certain personal property*, that is a door, a bottle, and two glasses, by punching the door with your first and slamming the bottle and two glasses against the counter with your hand.[3]

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[2] The specification in the Entry of Judgment (EOJ), Charge Sheet, Offer for Plea Agreement, and flyer also contain no references to "personal property." (*Entry of Judgment*, Record of Trial (ROT) Vol.1; *Charge Sheet*, ROT, Vol. 1; App. Ex. at CXXII; App. Ex. CXXIII.)

[3] The words "personal property" are not listed in the flyer. *See* App. Ex. CXXIII.

(R. at 968.) The military judge then advised Appellant, "An act is done willfully if it is done intentionally or on purpose. Property may be damaged if it has been physically injured in any way." (R. at 969.) Appellant confirmed he understood the elements and definitions as provided to him and his guilty plea admitted the elements accurately described his conduct. (Id.) Neither party objected to the elements or definitions provided by the military judge. (Id.) Appellant then described in his own words why he was guilty of damaging AC's property and the extent of the damage he caused. (R. at 969-977.)

On 11 March 2026, this Court issued an order requesting supplemental briefing on the specified issue, which indicated, in relevant part, "The stipulation of fact and the military judge's explanation of the elements of this offense during her providency inquiry with Appellant described the door, which was attached to AC's house, as 'personal property.'" This Court's order stated, "[t]he elements of an offense under Article 109, UCMJ, as set forth in the Manual for Courts-Martial, distinguish between 'willfully or recklessly wast[ing] or spoil[ing]' real property, and 'willfully or wrongfully' damaging or destroying personal property." *See* Manual for Courts-Martial, United States (2019 ed.), pt. IV, ¶ 45.b. This Court, using BLACK'S LAW DICTIONARY (6th ed.), provided relevant definitions distinguishing between real property and personal property. "Real property generally refers to [l]and, and generally whatever is growing upon or affixed to land" and "[p]ersonal property generally includes, [i]n a broad and general sense, everything that is the subject of ownership, not coming under denomination of real estate."

Standard of Review

This Court reviews a military judge's decision to accept an accused's guilty plea for an abuse of discretion. United States v. Riley, 72 M.J. 115, 119 (C.A.A.F. 2013) (citing United States v. Inabinette, 66 M.J. 320, 322 (C.A.A.F. 2008)). In determining whether a military judge abused her discretion in accepting a guilty plea as provident, "an appellate court will not reverse that finding and reject the plea unless it finds a substantial conflict between the plea and the accused's statements." United States v. Garcia, 44 M.J. 496, 498 (C.A.A.F. 1996).

Law & Analysis

"During a guilty plea inquiry[,] the military judge is charged with determining whether there is an adequate basis in law and fact to support the plea before accepting it." United States v. Forbes, 78 M.J. 279, 281 (C.A.A.F. 2019) (citation omitted). "A plea is provident so long as the appellant was convinced of, and was able to describe, all the facts necessary to establish his guilt." United States v. Murphy, 74 M.J. 302, 308 (C.A.A.F. 2015) (internal quotations and citations omitted). The military judge may consider both the stipulation of fact and the inquiry with the appellant when determining if a guilty plea is provident. United States v. Hines, 73 M.J. 119, 124 (C.A.A.F. 2014) (citation omitted). Article 45(a), UCMJ, requires military judges to reject a guilty plea "if it appears that [an accused] has entered the plea of guilty improvidently." "If an accused 'sets up matter inconsistent with the plea' at any time during the proceeding, the military judge must either resolve the apparent inconsistency or reject the plea." United States v. Garcia, 44 M.J. 496, 498 (C.A.A.F. 1996) (quoting Article 45(a), UCMJ). However, Article 45(c), UCMJ also provides, "[a] variance from the requirements of this article is harmless error if the variance does not materially prejudice the substantial rights of the accused." "[W]hen a plea

of guilty is attacked for the first time on appeal, the facts will be viewed in the light most favorable to the [G]overnment." United States v. Arnold, 40 M.J. 744, 745 (A.F.C.M.R. 1994)

In United States v. Jeter, this Court noted the President [] created two offenses within the ambit of Article 109, UCMJ, based on the type of property at issue: *the wasting or spoiling of real property* and the *destroying or damaging of personal property*. 74 M.J. 772, 775 (A.F. Ct. Crim. App. 2015); MCM, pt. IV, ¶ 45.c(1) and (2) provides:

> (1) *Wasting or spoiling non-military property*. This portion of Article 109 proscribes willful or reckless waste or spoliation of the real property of another. The terms "wastes" and "spoils" as used in this article refer to such wrongful acts of voluntary destruction of or permanent damage to real property as burning down buildings, burning piers, tearing down fences, or cutting down trees. This destruction is punishable whether done willfully, that is intentionally, recklessly, or is through a culpable disregard of the foreseeable consequences of some voluntary act.
>
> (2) *Destroying or damaging non-military property*. This portion of Article 109 proscribes the willful and wrongful destruction or damage of the personal property of another. To be destroyed, the property need not be completely demolished or annihilated, but must be sufficiently injured to be useless for its intended purpose. Damage consists of any physical injury to the property. To constitute an offense under this section, the destruction or damage of the property must have been willful and wrongful. As used in this section "willfully" means intentionally and "wrongfully" means contrary to law, regulation, lawful order, or custom. Willfulness may be proved by circumstantial evidence, such as the manner in which the acts were done.

The two offenses are related but differ. "One offense relates to the willful or reckless waste or spoliation of the *real property* of another. The other offense relates to the willful and wrongful destruction of the *personal property* of another." United States v. Weaver, 48 C.M.R. 856, 856 (A.C.M.R. 1974) (emphasis added).

A. The Military Judge did Not Abuse Her Discretion When She Determined the Door was Personal Property.

The mud room door was located inside of AC's house "in the dining area adjacent to the mud room," but reasonable minds may differ about whether this particular door should be classified as real or personal property. (R. at 975.) The military judge's classification of the door – that it was personal property – which was a reasonable finding, was critical, accepted by all parties without objection, and this determination was not arbitrary, fanciful, clearly unreasonable, or clearly erroneous. *See* United States v. Kennedy, No. ACM S32660, 2021 CCA LEXIS 575, at *11-12 (A.F. Ct. Crim. App. Nov. 1, 2021) (unpub. op.) (finding the appellant's plea provident to damaging personal property when the appellant admitted that he *willfully* and *wrongfully* punched a hole in the wall in the dorm room) (emphasis added); But see United States v. Burk, No. ACM 38455, 2015 CCA LEXIS 124, at *5-6 (A.F. Ct. Crim. App. Apr. 2, 2015) (unpub. op.) (finding the appellant "spoiled" real property by punching holes in doors and walls in government housing, which required the property manager to replace two of the damaged doors).[4] This Court should decline to disturb an undisputed issue, settled at trial, especially in a guilty plea case where Appellant's agreement was evident. Accordingly, this Court should defer to the military judge's determination and find Appellant's guilty plea to damaging the door provident.

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[4] *See also* United States v. Bragg, 4 C.M.R. 778, 779 (A.F.C.M.R. 1952) (charging the appellant with *willfully* and *wrongfully* damaging the property of a Japanese Railroad Company after breaking the glass from a window and a door in violation of Article 109, UCMJ); United States v. Rand, 17 C.M.R. 893, 894 (U.S. A.F.B.R. 1954) (finding evidence legally sufficient that the appellant *willfully* and *wrongfully* damaged a wooden and screen door, the property of the Housing Authority, but overturning over an instructional error).

B. Appellant's Detailed Admissions Cure Any Purported Error

Even if this Court concludes the military judge abused her discretion in determining the door was personal property, the record reveals the Accused's plea was provident. Two technical differences exist between the two potential property offenses at issue here: (1) mens rea and (2) type of damage. Regardless of how this Court interprets the specification, Appellant's plea satisfies the elements of both offenses.

Regarding the mens rea, the military judge failed to distinguish the required mens rea for each offense. Nevertheless, the record confirms Appellant understood his conduct and knowingly pleaded guilty because he was, in fact, guilty. (R. at 968-977.) Critically, both offenses can be committed willfully. Here, Appellant freely admitted his conduct amounted to willfully striking the door. Specifically, Appellant testified that "In my frustration, I hit my fist against the door to her mud room" and "I was familiar with the door and the fact that it was not made of the best wood, [and] I knew . . . the impact of my fist would cause damage to the door." (R. at 972.) Appellant emphasized, "I didn't accidentally damage the door, I did it on *purpose* knowing that it belonged to [AC]. (Id.) (emphasis added) There can be no doubt Appellant's conduct was willful and here, even if the door is classified as real property, its destruction was willful.

Not only was Appellant's conduct willful, Appellant's plea provided sufficient evidence that his conduct "spoiled" the door. In United States v. Burk, this Court previously found that replacing a damaged door was, in part, compelling evidence of permanent damage or "spoiled" property sufficient to satisfy the damage element under Article 109, UCMJ. No. ACM 38455, 2015 CCA LEXIS 124, at *5-6 (A.F. Ct. Crim. App. Apr. 2, 2015) (unpub. op.) There, the evidence established that the appellant caused permanent damage or "spoiled" property when he

punched large holes on multiple doors and cracked a door jamb, among other destruction, which required the property manager to replace two of the doors. Id. Here, Appellant punched a hole through AC's mud room door and he was aware, based on the construction of the door, of the likely damage his action would inflict, and the record indicates the severity of Appellant's conduct established permanent damage, which caused him to pay for its complete replacement. (R. at 972; R. at 1296; R. at 1327.) Thus, despite the military judge's failure to advise Appellant that damage to the mud room door must be permanent to be convicted under Article 109 for real property, this Court should consider the entire record and that Appellant established the factual predicate for his guilty plea for inflicting permanent damage on the mud room door. Therefore, when viewed in the context of the entire record, similar to Murphy, any error from the military judge's failure to completely define the damage element for real property versus personal property was cured by Appellant's own detailed account.

In specifying the issue, this Court cited to United States v. McCameron, No. ACM 40089, 2022 CCA LEXIS 663, at *12–14 (A.F. Ct. Crim. App. 17 Nov. 2022) (unpub. op.), *aff'd on other grounds*, 83 M.J. 442 (C.A.A.F. 2023). There, this Court determined the military judge erred by: (1) finding the damaged wall in the appellant's residence was personal property, not real property; (2) finding damage to the wall must only "consist of physical injury," not "the destruction or permanent damage required when the damage is to real property;" and (3) failing to correctly define the damage required for real property. Id. In making its determination, this Court emphasized that "[a]ppellant's statements during the plea colloquy clearly indicated that the damage to the wall of his residence was *easily repaired* and that there was no permanent damage to the wall." McCameron, 2022 CCA LEXIS 663, at 14. While the military judge's errors here are similar in some respects, crucial factual distinctions are present as well.

Particularly, unlike in McCameron, the record here contains the very element missing there; the factual predicate for permanent damage, provided directly by Appellant. Accordingly, this Court should conclude that the military judge did not abuse her discretion in finding Appellant's guilty plea provident.

C. If the Guilty Plea Is Found Improvident, Appellant Suffered No Material Prejudice.

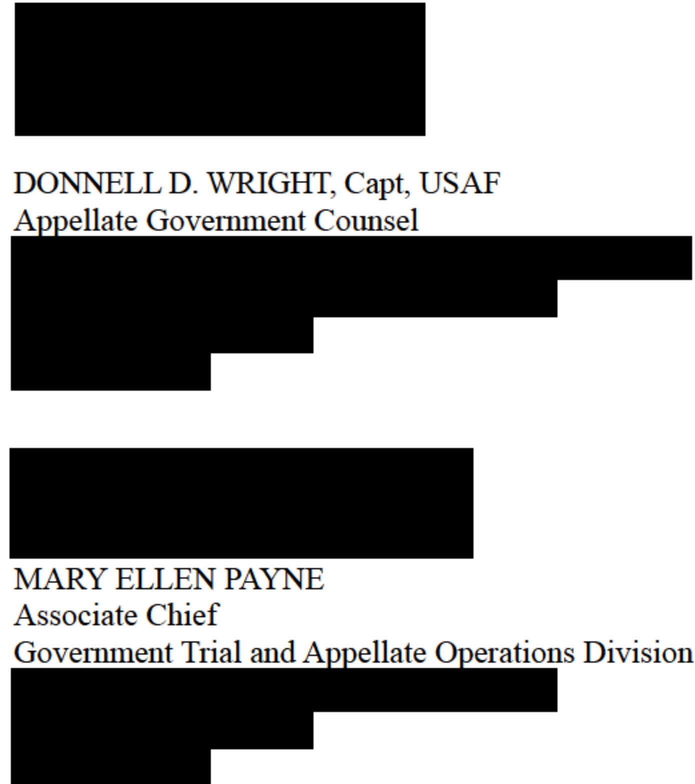
If this Court determines Appellant's plea was improvident, that determination is the beginning of the analysis—not the end. *See* United States v. Moratalla, 82 M.J. 1, 4 (C.A.A.F. 2021) ("Even if a guilty plea is later determined to be improvident, a reviewing court may grant relief *only* if it finds that the military judge's error in accepting the plea 'materially prejudice[d] the substantial rights of the accused.'" Article 45(c), UCMJ.) (emphasis added). Here, Appellant suffered no prejudice because and assuming the door was "real property," the specification at issue was duplicitous. It contained the elements for two offenses. When viewed in that light, the duplicitous specification was potentially to his advantage and he bargained for, and significantly reduced, his sentencing exposure. In United States v. Poole, 26 M.J. 272, 274 (C.M.A. 1988), the Court noted, "a duplicitous pleading is to the advantage of the accused," and here, Appellant failed to object to the duplicitous specification despite multiple opportunities to do so. Here, the property's designation as real or personal has no bearing as Appellant's punitive exposure remains identical. Under any characterization, Appellant angrily and purposefully damaged a door and destroyed a bottle and two glasses within AC's home. Thus, even if this Court reassesses his conduct without considering the damage to the door—Appellant would suffer no prejudice.

Additionally, beyond these factors, the favorable plea agreement Appellant bargained for, and received, demonstrates he suffered no material prejudice, but in fact, secured a substantial

benefit. Appellant bargained for "no less than four months" confinement with the maximum amount of confinement capped at nine months. (App. Ex. CXXII.) During the Care inquiry, Appellant described in his own words why he was guilty and affirmatively waived the defense of voluntary intoxication specifically for the relevant specification. (R. at 978.) Appellant's conduct was subject to a maximum punishment of a dismissal, total forfeiture of all pay and allowances, 14 years confinement, and a reprimand. (R. at 980.) The military judge advised the members that "the minimum punishment that must be adjudged in this case is four months confinement," and the members sentenced Appellant to a reprimand, the *minimum* amount of confinement of four months, and a dismissal. (R. at 1472; R. at 1494.) Considering that Appellant received the minimum confinement for which he bargained for—a considerable departure from a potential fourteen-year maximum—Appellant has suffered no material prejudice. In sum, Appellant's claim should be denied. Appellant secured a favorable plea agreement and received the minimum four-month sentence when faced potentially, with fourteen years of confinement. The record establishes that Appellant's plea was provident, he suffered no prejudice, and no additional relief is warranted, or necessary.

CONCLUSION

For these reasons, the United States respectfully requests that this Honorable Court deny Appellant's claims and affirm the findings and sentence.

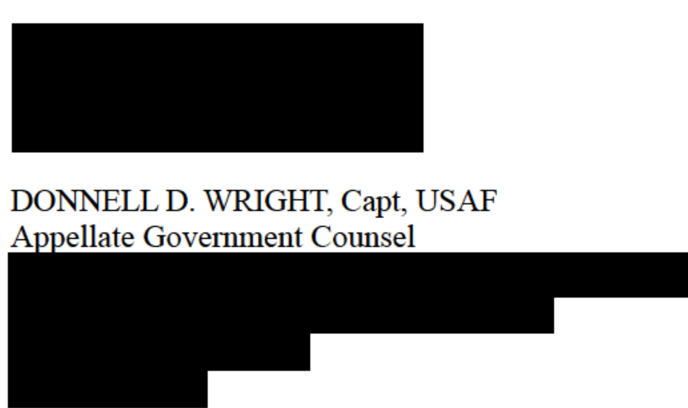


DONNELL D. WRIGHT, Capt, USAF
Appellate Government Counsel

MARY ELLEN PAYNE
Associate Chief
Government Trial and Appellate Operations Division

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and the Air Force Appellate Defense Division on 25 March 2026.



DONNELL D. WRIGHT, Capt, USAF
Appellate Government Counsel

UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS

UNITED STATES	)	**No. ACM 40690**
Appellee	)	
	)	
v.	)	**ORDER**
	)	
Giorgio A. SZABO	)	
Lieutenant Colonel (O-5)	)	**Special Panel**
U.S. Air Force	)	
Appellant	)	**3 September 2025**

The purpose of this order is to create a record of the status conference regarding this case held on 2 September 2025.

On 15 August 2025, Appellant moved for a ninth enlargement of time of 30 days in which to file his assignments of error, requesting a new due date of 25 September 2025. The Government opposed the motion. On 22 August 2025, the court granted the motion. In addition, this court ordered counsel for the parties to coordinate a status conference at the earliest opportunity.

On 2 September 2025, the court held a status conference to discuss the progress of this case. Appellant was represented by Captain Joyclin N. Webster; Lieutenant Colonel Allen S. Abrams and Mr. Dwight Sullivan from the Appellate Defense Division were also present. Major Vanessa Bairos represented the Government. In response to questions from the court, Captain Webster provided information regarding her workload and estimated Appellant may request one or two additional enlargements of time before filing his assignments of error. Lieutenant Colonel Abrams provided additional information regarding the activities of the Appellate Defense Division.

FOR THE COURT

CAROL K. JOYCE
Clerk of the Court