

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

In re H.F.

Petitioner

SMSgt Shakib Rahman
United States Air Force

Real Party in Interest

PETITION FOR EXTRAORDINARY
RELIEF *in the form of a WRIT OF*
MANDAMUS

and

MOTION TO STAY PROCEEDINGS

Misc. Dkt. No. 2025-XX

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

COMES NOW H.F. by and through her undersigned Victims' Counsel (VC), petitioning for a writ of mandamus under Article 6b(e) in accordance with Air Force Court of Criminal Appeals Rule of Practice and Procedure 19. H.F. moves for an immediate stay of proceedings to prevent the admission of evidence pursuant to the Military Judge's ruling under Military Rule of Evidence (Mil. R. Evid.) 412.

Military Judge Colonel Willie Babor' ruling (*Military Judge Ruling on Defense Mil. R. Evid. 412 Motion*. Attachment 1.), which grants the admissibility of evidence pursuant to Mil. R. Evid. 412 violates H.F.'s rights by reaching a conclusion inconsistent with the evidence before the court and by failing to employ the Mil. R. Evid. 412 balancing test as stated by *United States v. Ellerbrock*, 70 M.J. 314, 318 (C.A.A.F. 2011). H.F. is a named victim as defined in Article 6b(b), and the Military Judge's ruling in the case in interest violates H.F.'s right to be treated with fairness and with respect for her dignity and privacy as guaranteed under Article 6b(a)(9).

ISSUE PRESENTED

WHETHER THE MILITARY JUDGE ERRED AND WRIT SHOULD ISSUE?

JURISDICTION

H.F. brings this petition under Article 6b(e)(4)(A) as her rights to be treated with fairness and with respect for her dignity and privacy are violated by the ruling because the ruling allows the court-martial to degrade H.F. Furthermore, as the ruling is inconsistent with—and clearly and indisputably allows evidence foreclosed by Mil. R. Evid. 412—H.F. brings this petition under Article 6b(e)(4)(C).

STANDARD OF REVIEW

H.F. must show, “(1) there is no other adequate means to attain relief; (2) the right to issuance of the writ is clear and indisputable; and (3) the issuance of the writ is appropriate under the circumstances.” *H.V.Z. v. United States*, 85 M.J. 8 (C.A.A.F. July 18, 2024)(citing *Hasan v. Gross*, 71 M.J. 416, 418 (C.A.A.F. 2012) (citing *Cheney v. United States Dist. Court for the Dist. of Columbia*, 542 U.S. 367, 380–81 (2004)).

H.F. seeks issuance of a writ of mandamus as Article 6b *requires* this mode of relief. The issuance of a writ by this Court is the statutorily prescribed method for enforcement of victims’ rights. As a result, issuance of a writ under Article 6b(e) is always an appropriate act of this Court. In short, the only *Cheney* criteria necessary to satisfy is that H.F.’s right to an issuance of the writ is clear and indisputable. H.F. asserts the Military Judge’s applied the wrong legal standard and granted admission of evidence that the Defense did not provide notice thereof—H.F.’s right

to relief is clear and indisputable.

STATEMENT OF THE CASE

On 14 April 2025, the detailed Military Judge granted the Defense motion, in part, to admit evidence under Mil. R. Evid. 412. *Military Judge Ruling on Defense Mil. R. Evid. 412 Motion*. Attachment 1. Over objection by H.F., through counsel, the Military Judge found [REDACTED]

[REDACTED]

required under Mil. R. Evid. 412(b)(3). *Id.* The Military Judge found that both items of evidence were material, favorable to the defense, and relevant to “potential bias, prejudice, or motive for testimony” [REDACTED]

[REDACTED] the Accused. *Id.* The Military Judge determined that the probative value of the evidence is not substantially outweighed by the risk of unfair prejudice, and that “[p]resentation of this evidence will take minimal time and does not duplicate other testimony.” *Id.*

STATEMENT OF FACTS

On 14 March 2023, the Air Force Office of Special Investigations (OSI), Detachment 513, initiated an investigation into allegations of rape of a child over 12 and under 16 years of age, assault of a child under 16, child pornography, and sexual abuse of a child by the Accused. *Government Response to Defense Mil. R. Evid. 412 Motion*. Attachment 2 at 11. The assault was reported to OSI by E.R., H.F.’s mother and the Accused’s wife. *Id.* at 15.

and not the standard as articulated by relevant Mil. R. Evid. 412 case law. *Military Judge Ruling on Defense Mil. R. Evid. 412 Motion*. Attachment 1. The Military Judge relied exclusively on *Gaddis* when determining which balancing test to apply, stating “[i]f after application of Mil. R. Evid. 403 factors the military judge determines that the probative value of the proffered evidence outweighs the danger of unfair prejudice, it is admissible no matter how embarrassing it might be to the alleged victim.” *United States v. Gaddis*, 70 M.J. 248, 256 (C.A.A.F. 2011) (internal quotation marks and citation omitted). More simply, a victim’s privacy interest alone cannot prevent admission of otherwise constitutionally required evidence. However, that does not absolve the Court’s obligation to conduct the Mil. R. Evid. 412(c)(3) balancing test when analyzing constitutionally required evidence. In fact, after the C.A.A.F. decided *Gaddis*, it clarified the issue in *Ellerbrock*, stating “if evidence is material and relevant, then it must be admitted when the accused can show that the evidence is more probative than the dangers of unfair prejudice.” *See Ellerbrock*, 70 M.J. at 319.

For relevant and material evidence to be admitted, the Defense must show that it possesses more probative value than the dangers of unfair prejudice, which include “harassment, prejudice, confusion of the issues, the witness’ safety, or interrogation that is repetitive or only marginally relevant.” *Ellerbrock*, 70 M.J. at 319 (quoting *Delaware v. Van Arsdall*, 475 U.S. 673, 679 (1986)). The prejudicial effect ██████████ ██████████ ██████████ extremely high, and common-sense dictates that the admission of this evidence will severely prejudice the named victim. The probative

of action Mil. R. Evid. 412 seeks to prevent. Had the correct evidentiary balancing test been employed, H.F. is confident the court would agree with this determination. Even still, after conducting the Mil. R. Evid. 412(c)(3) balancing test, the evidence is still subject to Mil. R. Evid. 403. [REDACTED]

[REDACTED] test given the extreme dangers of unfair prejudice, confusion of the issues, and misleading the members.

d. This is not constitutionally required.

This evidence is not constitutionally required under Mil. R. Evid. 412(b)(3). The question before the Court is whether the Accused's Sixth Amendment rights would be violated if he is denied the opportunity to cross-examine [REDACTED]. See *Ellerbrock*, 70 M.J. at 318; *Davis v. Alaska*, 415 U.S. 308, 315 (1974). The right to confront and cross-examine witnesses is broad but not unfettered; the rules of evidence must be considered. *Id.* The exclusionary principles of Mil. R. Evid. 412 are justified by limiting cross-examination intended to attack a witness's credibility based on concerns such as harassment, prejudice, or marginal relevancy. See *Velez* 48 M.J. at 226; *Van Arsdall*, 475 U.S. at 679.

The mere incantation of Mil. R. Evid. 608(c) does not trump the expressed purpose of Mil. R. Evid. 412; this is especially true when there is insufficient evidence [REDACTED] each threshold test established by Mil. R. Evid. 412. [REDACTED] [REDACTED] a motive to fabricate, but that requires the Defense to demonstrate why *this* victim, in *this* case, has a motive to fabricate. *United States*

v. Alston, 75 M.J. 875 (A. Ct. Crim. App. 2016); rev. den'd *United States v. Alston*, 76 M.J. 130 (C.A.A.F. 2017). The Defense has not satisfied this burden, so this cannot be a viable theory of admissibility for this evidence. [REDACTED]

[REDACTED] is not constitutionally required to [REDACTED]

[REDACTED] There are plentiful avenues, outside of Mil. R. Evid. 412, with which the Defense can [REDACTED]

[REDACTED]

Therefore, this evidence is not constitutionally required and should not be admissible at court-martial.

II.

THE MILITARY JUDGE CLEARLY AND INDISPUTABLY ERRED IN ALLOWING DEFENSE TO ADMIT ““ [REDACTED]

[REDACTED]

The Military Judge found that evidence [REDACTED]

[REDACTED]

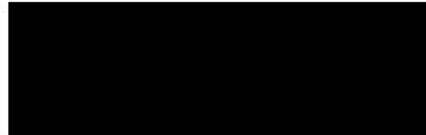
relevant, material, favorable to defense, and met the Mil. R. Evid. 403 balancing test. The Military Judge clearly and indisputably erred in finding that this evidence is relevant and material. Further, the Military Judge failed to conduct the requisite

of bias. See generally *Alston*, 75 M.J. 875.

CONCLUSION

The Military Judge clearly and indisputably erred by reaching a conclusion inconsistent with legal precedent and made conclusions of fact in defiance of the evidence before the court. The error violates H.F.'s rights—writ should issue.

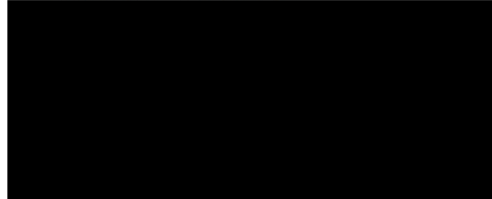
RESPECTFULLY SUBMITTED this 5th day of May, 2025.



DEVON A. R. WELLS, GS-14, DAF CIVILIAN
Appellate Victims' Counsel

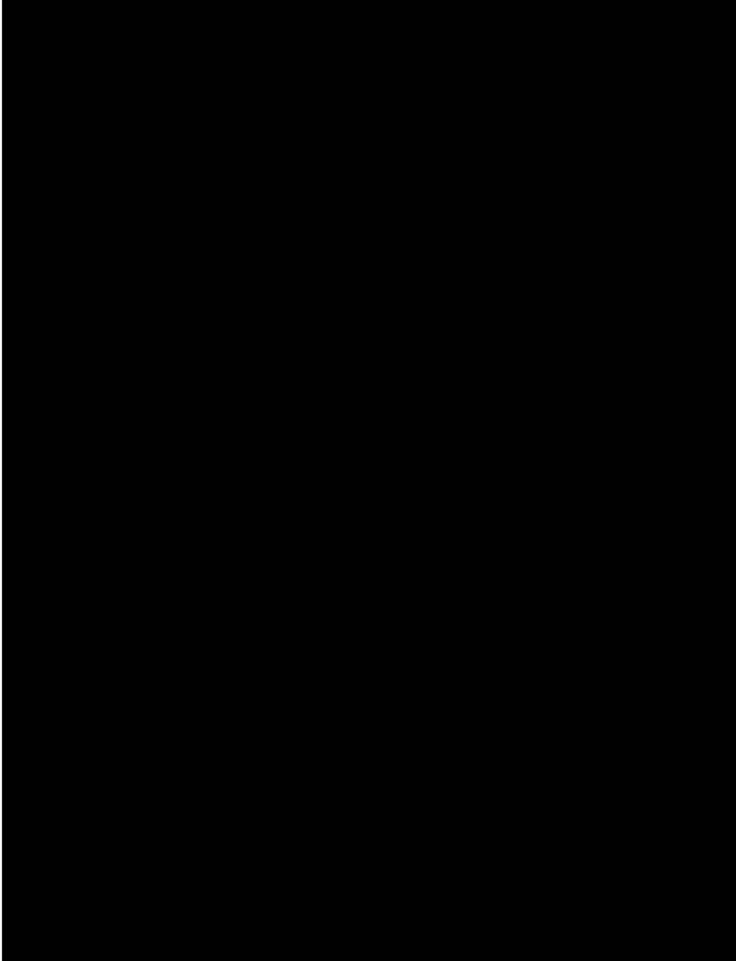


KATELYN H. DEEDS, Capt, USAF
Counsel for H.F.
Victims' Counsel

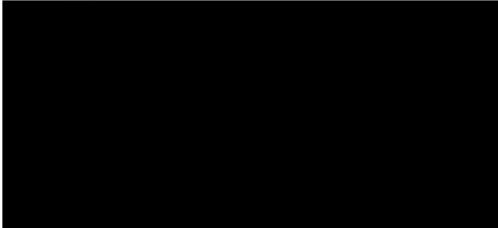


CERTIFICATE OF FILING AND SERVICE

I certify that on May 5, 2025, the foregoing was electronically filed with the Court and served on the following addresses:



DEVON A. R. WELLS, GS-14, DAF CIVILIAN
Counsel for D.D.
Appellate Victims' Counsel



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

In re HF)	Misc. Dkt. No. 2025-04
<i>Petitioner</i>)	
)	
)	
)	
)	
)	NOTICE OF
Shakib RAHMAN)	DOCKETING
Senior Master Sergeant (E-8))	
U.S. Air Force)	
<i>Real Party in Interest</i>)	

On 5 May 2025, the court received a petition for extraordinary relief under Article 6b, UCMJ, 10 U.S.C. § 806b, in the nature of a “Writ of Mandamus or Petition for Extraordinary Relief and Motion to Stay Proceedings” in the above-styled case. On this same date, Petitioner filed a Motion to File Under Seal, pending ruling by the court.

Accordingly, it is by the court on this 6th day of May, 2025,

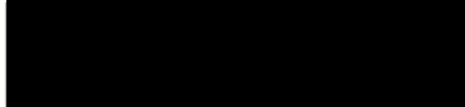
ORDERED:

The case is assigned Misc. Dkt. No. 2025-04 and referred to Panel 1.

No briefs in response to this petition will be filed unless ordered by the court. *See* JT. CT. CRIM. APP. R. 19(g).



FOR THE COURT



OLGA STANFORD, Capt, USAF
Chief Commissioner

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

In re HF)	Misc. Dkt. No. 2025-04
<i>Petitioner</i>)	
)	
)	ORDER
)	
Shakib Rahman)	
Senior Master Sergeant (E-8))	
United States Air Force)	Panel 1
<i>Real Party in Interest</i>		

On 5 May 2025, Petitioner filed a Petition for Extraordinary Relief in the form of a Writ of Mandamus and a Motion to Stay Proceedings. On the same date, Petitioner filed a Motion to File under Seal.

Upon review of the materials provided in the Petition, this court noticed Attachment 4 is a disc that purports to contain an interview clip. However, after examining the disc, this court found that its contents are inaudible and therefore cannot be considered for the above filings.

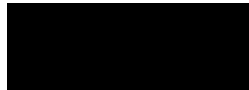
Accordingly, it is ordered by the court on this 8th day of May, 2025,

ORDERED:

Petitioner will take all steps necessary to produce an *audible* version of the interview if she desires this court consider the interview in its review of the petition, **not later than 12 May 2025**.



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

In re H.F.

Petitioner

**MOTION TO ATTACH REPLACEMENT
ATTACHMENTS 4 and 9**

**SMSgt Shakib Rahman
United States Air Force**

Real Party in Interest

Misc. Dkt. No. 2025-04

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

H.F. through her undersigned counsel pursuant to A.F. CT. CRIM. APP. R. 23(b) and 23.3.(o) moves to attach replacement attachments 4 and 9 to her Petition for Relief under Article 6b *in the form of a Writ of Mandamus* under seal. On 8 May 2025 this Court issued an order indicating original Attachment 4 was unintelligible. Upon further review, Petitioner realized original Attachment 9 did not contain video, although it was intelligible. With that, H.F. moves to attach replacement video discs as Attachment 4 and Attachment 9 to her Petition filed on 5 May 2025. Due to the sensitive, private information contained in the matters she seeks to file under seal consistent with the sealing by the Military Judge.

The materials H.F. seeks to attach and seal were served on this Court, Appellate Government Division, and Appellate Defense Division.

RESPECTFULLY SUBMITTED this 8th day of May, 2025.

[REDACTED]

DEVON A. R. WELLS, GS-14, DAF CIVILIAN
Appellate Victims' Counsel

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that on May 8, 2025, the foregoing was electronically filed with the Court and served on the following addresses:

af.jajg.afloa.filing.workflow@us.af.mil; AF.JAJA.AFLOA.Filing.Workflow@us.af.mil;

AF.JAH.Filing.Workflow@us.af.mil; [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DEVON A. R. WELLS, GS-14, DAF CIVILIAN
Counsel for D.D.
Appellate Victims' Counsel

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

In re H.F.

Petitioner

MOTION TO FILE UNDER SEAL

SMSgt Shakib Rahman
United States Air Force

Real Party in Interest

Misc. Dkt. No. 2025-XX

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

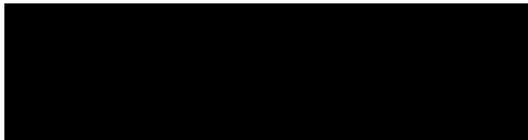
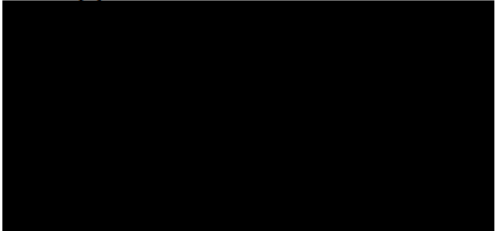
H.F. through her undersigned counsel pursuant to A.F. CT. CRIM. APP. R. 23.3(o) moves to file the Petition for Extraordinary Relief and its Attachments 1-4 and 6-9 of her Petition for Relief under Article 6b *in the form of a Writ of Mandamus* under seal. All the attachments were ordered sealed by the Military Judge Colonel Willie Babor consistent with Mil. R. Evid. 412. H.F. seeks relief for violations of her right to be treated with fairness and respect for her dignity and privacy and for violations of Mil. R. Evid. 412 procedures. Due to the sensitive, private information contained in the matters she seeks to file under seal consistent with the sealing by the Military Judge.

The materials H.F. seeks to seal were served on this Court, Appellate Government Division, and Appellate Defense Division.

RESPECTFULLY SUBMITTED this 5th day of May, 2025.



DEVON A. R. WELLS, GS-14, DAF CIVILIAN
Appellate Victims' Counsel



KATELYN H. DEEDS, Capt, USAF
Counsel for H.F.
Victims' Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that on May 5, 2025, the foregoing was electronically filed with the Court and served on the following addresses:

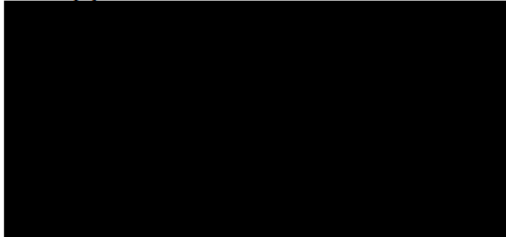
af.jajg.afloa.filng.workflow@us.af.mil

AF.JAJA.AFLOA.Filing.Workflow@us.af.mil

AF.JAH.Filing.Workflow@us.af.mil



DEVON A. R. WELLS, GS-14, DAF CIVILIAN
Counsel for D.D.
Appellate Victims' Counsel



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

In re HF)	Misc. Dkt. No. 2025-04
<i>Petitioner</i>)	
)	
)	
)	ORDER
Shakib RAHMAN)	
Senior Master Sergeant (E-8))	
U.S. Air Force)	
<i>Real Party in Interest</i>)	Panel 1

Petitioner is named victim in the general court-martial of Senior Master Sergeant Shakib Rahman at Aviano Air Base, Italy. The charges include violations of Article 120 and 120b, UCMJ, 10 U.S.C. §§ 920, 920b. On 5 May 2025, Petitioner filed a two-part petition: petition for extraordinary relief in the form of a writ of mandamus pursuant to Article 6b, UCMJ, 10 U.S.C. § 806b, and a motion to stay the court-martial proceedings. Petitioner also moved to file her writ under seal. This court docketed the petition on 6 May 2025.

On 8 May 2025, after review of the petition and its attachments, the court ordered Petitioner to “take all steps necessary to produce an *audible* version of the interview if she desires this court consider the interview in its review of the petition.” On 8 May 2025, Petitioner responded to this court’s order, and moved this court to attach amended interview files in Attachments 4 and 9 of the petition. On 12 May 2025, this court granted Petitioner’s motion to attach Attachments 4 and 9 to the petition and also granted Petitioner’s motion to file under seal.

In her writ of mandamus, Petitioner asks this court, *inter alia*, for relief to grant an “immediate stay of the proceedings to prevent the admission of evidence pursuant to the military judge’s ruling under [Mil. R. Evid.] 412.” Petitioner notes “the [m]ilitary [j]udge issued his ruling on 15 April 2025.” Petitioner did not provide this court with any information as to the start date of the trial or next court session. Still, Petitioner seeks to challenge the military judge’s ruling allowing the admission of evidence that “violates [HF]’s right to be treated with fairness and with respect for her dignity and privacy as guaranteed under Article 6b(a)(9)[, UCMJ, 10 U.S.C. § 806b(a)(9)].” While this court will continue its review of Petitioner’s writ of mandamus, we decline to issue a stay.

Accordingly, it is by the court on this 15th day of May, 2025,

ORDERED:

Petitioner's Motion to Stay Proceedings dated 5 May 2025 is hereby **DE-**
NIED.



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court