IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

In re

Mr. Humphrey Daniels, III, *Petitioner*, *Pro se*

v.

United States, *Respondent*

Misc. Dkt. No. _____

PETITION FOR EXTRAORDINARY RELIEF

UNDER THE ALL WRITS ACT, 28 U.S.C. § 1651(a)

(**Based on Fraud on the Court**)

TABLE OF CONTENTS

TABLE OF AUTHORITIES

United States Supreme Court Cases

United States Court of Appeals for the Armed Forces and United States Court of Military Appeals Cases

United States Air Force Court of Criminal Appeals

Statutes and Rules

Other Authorities:

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

Mr. Humphrey Daniels, III, appearing pro se, respectfully petitions this Court for extraordinary relief under the All Writs Act, 28 U.S.C. § 1651(a). While a separate appeal is being submitted to the U.S. Court of Appeals for the Armed Forces (CAAF) under Article 67, Uniform Code of Military Justice (UCMJ), concerning a sentencing issue remanded under *United States v. Harrington*, this petition arises independently from **newly discovered evidence of fraud on the court**—fraud that renders the underlying conviction constitutionally invalid.

The misconduct included: (1) the knowing use of false testimony, (2) the admission of a **staged 911 call** as authentic evidence following improper judicial review, and (3) the **suppression of exculpatory material**--specifically, a 1998 report referenced by the Air Force Office of Special Investigations (AFOSI) as a "connected case" but never disclosed. Post-trial findings confirm Mr. Daniels was not the subject of that report, demonstrating it was concealed to mislead the panel.

As held in *Hazel-Atlas* and reaffirmed in *Denedo*, such structural fraud is not subject to waiver and demands correction to preserve the integrity of the judicial process.

I. JURISDICTION

This Court retains jurisdiction under the All Writs Act, 28 U.S.C. § 1651(a), which authorizes courts to issue writs in aid of their jurisdiction. The petition is filed while the Air Force Court of Criminal Appeals (AFCCA) retains jurisdiction for a limited post-remand sentencing review under *United States v. Harrington,* 83 M.J. ___, 2023 CAAF LEXIS 577 (C.A.A.F. 2023). This independent writ is not a continuation of the

Article 67 appeal but arises from newly discovered evidence of fraud on the court. Under *United States v. Denedo*, 66 M.J. 114 (C.A.A.F. 2008), aff'd, 556 U.S. 904 (2009), this Court has jurisdiction under the All Writs Act to review post-conviction claims, including those alleging fraud on the court. This Court has jurisdiction to consider collateral constitutional claims even after the direct appeal process has ended.

II. INTRODUCTION: FRAUD ON THE COURT & DUE PROCESS VIOLATIONS

The government knowingly presented false material evidence and solicited materially false testimony—while at the same time ignoring the existence of "hard" evidence that disproved those lies. Notwithstanding that, the trial judge privately reviewed a materially false 911 recording overnight and ruled to admit it into evidence without addressing its staged nature. Additionally, trial counsel, acting through military investigators, suppressed material information from 1998 about a "connected case" that was linked to a material witness by investigators—which related to the Article 120, accusation as it existed in 1998. These acts undermined the fact-finding mission of the court and grossly violated Mr. Daniels' Due Process rights in order to manufacture a wrongful conviction.

III. ORIGINAL TRIAL

In June 2017, Petitioner was tried at a general court-martial by a panel of officer members at Joint Base Andrews, Maryland. Contrary to his pleas, he was convicted of one specification under Article 92, one specification under Article 120, and four specifications under Article 133, UCMJ. He was sentenced to a reprimand, three years of confinement, and a dismissal.

The Petitioner maintains that these convictions resulted from a coordinated fraud on the court committed by the military prosecutors across all charges—and enabled in part by the trial judge's decision to admit a staged 911 call in support of one of those charges.

IV. STATUS OF THE APPEAL

On 2 February 2018, the convening authority approved the reprimand, 2 years and 252 days of confinement, and the dismissal, and except for the dismissal, ordered the sentence executed.

On 18 June 2019, the Air Force Court of Criminal Appeals (AFCCA) set aside the Article 120 conviction, one specification under Article 133, and the sentence. AFCCA authorized a rehearing on the sentence. *United States v. Daniels*, No. ACM 39407, 2019 CCA LEXIS 261 (A.F. Ct. Crim. App. 18 Jun. 2019) (unpub. op.).

On 22 July 2019, the Court of Appeals for the Armed Forces (CAAF) affirmed the AFCCA's ruling. However, following the Supreme Court's ruling in *United States v. Briggs*, 141 S. Ct. 467 (2020), holding that certain pre-2006 Article 120 offenses were "punishable by death" and thus not time-barred, CAAF reversed its position and remanded the case back to AFCCA for a new review under Article 66, UCMJ. *United States v. Daniels*, No. 19-0345, 2021 CAAF LEXIS 42 (C.A.A.F. 25 Jan. 2021).

On 9 August 2022, AFCCA reinstated the conviction under Article 120 and affirmed the findings and sentence for all remaining charges. *United States v. Daniels* (*Daniels II*), 2022 CCA LEXIS 472 (A.F. Ct. Crim. App. 9 Aug. 2022) (unpub. op.).

In 2023, CAAF declined to grant discretionary review, leaving the AFCCA's findings in place by operation of law, but remanded for further review of sentencing issues under *United States v. Harrington*.

In 2025, AFCCA summarily affirmed the original sentence. In doing so, the court declined to address newly discovered and independently verifiable evidence of fraud on the court—including government misconduct and the suppression of potentially exculpatory material. The panel—led by the same senior judge who authored the 2022 opinion—refused to permit this evidence into the record, despite its constitutional significance. Accordingly, the present Writ is submitted to this Court.

V. BACKGROUND AND CONTEXT LEADING TO THE COURT-MARTIAL

The military charges against Mr. Daniels arose from a deteriorating relationship with Ms. DU, an Army reservist on extended medical leave seeking reassignment from her Pentagon post. After a verbal dispute in late November 2014, she surreptitiously removed a house key from Mr. Daniels' keychain while he slept, excluding him from the Virginia residence where he had temporarily stayed to assist with her recovery from back surgery. Although maintaining his own residence in Maryland, Mr. Daniels **co-paid rent** and contributed to household expenses. These facts were demonstrated in a 2015 Virginia court proceeding and appear in documents held by the military.

When Mr. Daniels later requested to retrieve his belongings, Ms. DU denied he had any property there and refused him entry. Using a spare key, he quietly returned to retrieve personal items (e.g., driver's license, checkbook, bank card, etc.) without encountering her.

Unbeknownst to him, Ms. DU reported a burglary to local police and arranged for the installation of a hidden surveillance camera in the side yard—an enclosed outdoor area already monitored by an existing home security system that Mr. Daniels had **paid to upgrade**. Billing records confirmed this installation and an ADT overcharge was later refunded to him. These details were likewise presented in the 2015 Virginia trial.

Days later, Mr. Daniels returned to retrieve additional belongings from the outdoor side yard. After observing him via her pre-existing security cameras, Ms. DU planted two rubber condoms in that area. Forensic testing later confirmed that Mr. Daniels' DNA was not present on either item. She planted a third condom in an area he never accessed—again, with no DNA match. Throughout this time, Ms. DU continued to quietly build a documentation trail by calling the police and "reporting" suspicious acts.

She subsequently filed false reports with law enforcement while simultaneously contacting Mr. Daniels' military chain of command—based solely on footage from the existing home security system, which **she did not disclose to police**. Phone records confirm she called Mr. Daniels' military base legal office and first sergeant *before* police retrieved footage from their hidden surveillance camera.

Ms. DU also coordinated with Fairfax Detective EM while continuing to contact Mr. Daniels via phone and text. On December 16, 2014, Mr. Daniels encountered her near a Walgreens store. Having previously communicated with her, he attempted to call her when he saw her parked roadside. At the same time, however, Ms. DU was calling 911 on advice previously given by Detective EM.

Mr. Daniels turned his car around and drove away, unaware of the unfolding setup. Ms. DU followed him in her vehicle to capture his license plate. Police later

encountered her over a mile from her home while she was still on the phone with 911, falsely claiming to be parked outside her house and about to enter. Despite appearing distraught, phone records show she calmly contacted others prior to and after her staged 911 call. Of note: when the police arrived at parked car—positioned roughly a mile or more away from her home, she asked them to call her U.S. Army boss to report what had "happened" and thereby leverage more documentation against Mr. Daniels. She pretended to be to scared to be able to place the call herself and duped the police into calling on her behalf (even though subpoenaed phone records proved she personal placed several calls and text messages before and after the police arrived).

She later used this incident to request reassignment to California, citing trauma. Mr. Daniels, meanwhile, was detained at his duty station and later transferred to Fairfax police custody based on her false report.

At his 2015 Virginia trial, Mr. Daniels was unanimously acquitted of the false "burglary" and "larceny" charges she leveled against him. He presented rent records, bank transactions, and an ADT invoice confirming his financial contributions to the residence. A witness—Ms. DU's own friend, Ms. MC—confirmed that Mr. Daniels lived at the residence and purchased a computer that Ms. DU had falsely claimed was stolen. The jury convicted him only of misdemeanor stalking, based solely on her allegation of being frightened on two occasions—the statutory minimum for such a charge in Virginia. He was ordered to pay a $2,500 fine.

Military prosecutors reviewed the civilian case and, in coordination with Fairfax police, filed new charges under Articles 120, 133, and 92, UCMJ. These included

military-only charges (such as "attempted" offenses) and a repackaged 1998 sexual assault allegation under Article 120.

To build their case, military prosecutors relied on materially false testimony, a staged 911 call, and suppressed material evidence with exculpatory value. The false narrative constructed across multiple charges formed the basis of a systemic fraud on the court. As will be demonstrated, these acts were not inadvertent errors—but coordinated, unlawful efforts to secure a wrongful conviction in 2017.

To date, seven individuals implicated in this misconduct have been named in federal criminal complaints filed by Mr. Daniels, supported by newly discovered evidence and pending referral to appropriate authorities.

VI. FRAUD ON THE COURT

Fraud on the court is defined as "a scheme to interfere with the judicial machinery performing the task of impartial adjudication." *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944). It is not merely perjury or nondisclosure, but a calculated effort—often by officers of the court—to corrupt the judicial process itself. The Supreme Court has emphasized that when such fraud occurs, no resulting judgment may be allowed to stand. See also *Napue v. Illinois*, 360 U.S. 264 (1959); *Giglio v. United States*, 405 U.S. 150 (1972).

While the Uniform Code of Military Justice (UCMJ) does not expressly define "fraud on the court," military courts retain jurisdiction under the All Writs Act, 28 U.S.C. § 1651(a), to remedy such misconduct. In *United States v. Denedo*, 556 U.S. 904 (2009), the Supreme Court reaffirmed that military appellate courts may grant extraordinary relief when post-conviction constitutional violations—including fraud—undermine the

fairness of a conviction. As the Court of Appeals for the Armed Forces explained in *Denedo*, “Fraud upon the court involves a wrong against the integrity of the judicial process itself.” 66 M.J. at 122.

The misconduct in this case exemplifies the type of institutional fraud contemplated by *Hazel-Atlas* and recognized under applicable constitutional standards. In this matter, fraud was orchestrated by trial counsel, facilitated by the trial judge, and left uncorrected by reviewing authorities. Specific acts of misconduct that constitute fraud on the court include:

- Admission of a knowingly staged (i.e., materially false and prejudicial) 911 call;
- Solicitation of materially false testimony from multiple key government witnesses, despite the government's possession of evidence proving the testimony was false;
- Deliberate misrepresentation by trial counsel of Mr. Daniels’ lawful residency, his right of access to the Virginia property, and the outcome of the 2015 civilian acquittal—despite actual knowledge of those facts—all used to falsely portray him as a trespasser and stalker;
- Withholding of a material investigation report relating to a "connected case" in the Article 120, UCMJ, investigation—despite a proper discovery request and the government’s physical control over the document.

A more detailed account of the coordinated fraud committed in this case is provided in the next section.

VII. SUMMARY OF COORDINATED FRAUD

- Trial counsel knowingly submitted a materially false and prejudicial 911 call staged by U.S. Army Major "DU" (Mr. Daniels' former girlfriend) in order to portray him as a trespasser or stalker. Phone and text records show that Ms. DU had repeatedly contacted Mr. Daniels on both his personal and work devices. This staged call was used to set up police involvement and later served as the basis for Ms. DU to obtain a reassignment from her Pentagon post to a location in Southern California—along with a fully funded relocation. In later proceedings, Ms. DU cited post-traumatic stress disorder (PTSD), which she attributed to the alleged events, as a basis for securing additional benefits through the Army and potentially the Department of Veterans Affairs.
- The trial judge corruptly admitted the call into evidence after off-record review and claimed it "added weight" to the government's case, even though it was materially false, **in an effort to unlawfully support the prosecution's narrative**, **commit fraud on the court**, and **prejudice Daniels Due Process rights across all charges during both the findings and sentencing phases** of trial.
- Military prosecutors knowingly solicited false material testimony from Colonel KB, who claimed to be the authority over Mr. Daniels' emergency leave request and stated that he personally denied it. Post-trial evidence confirmed that Colonel KB's testimony was false and contradicted by internal records reviewed by the convening authority and other officials.

- Prosecutors also solicited false material testimony from Fairfax Detective AG, who testified that Mr. Daniels' apartment had not been ransacked—contrary to photographic evidence produced during discovery.
- Fairfax Detective EM falsely testified that Mr. Daniels entered the "back yard" of Ms. DU's property. In fact, the location was a "side yard," as confirmed by color photographs from EM's own investigation file, obtained through post-trial review of discovery evidence. The existence of this "side yard" had been photographed by Detective EM and was consistent with Mr. Daniels' statements. This evidence was presented to post-trial reviewing authorities but was disregarded.
- Prosecutors further solicited false testimony from Ms. TS, who claimed that Mr. Daniels wore shorts during a 1998 incident, when police and investigative records show he wore pants that night.
- Ms. TS also falsely claimed that a neighbor reported the 1998 incident. Records from the 1998 investigation confirmed that the report originated from a male acquaintance, Mr. JC, who fabricated the account (notes that he provided to military investigators in 1998 along with evidence collected in an ongoing 2025 investigation show that he lied).
- Post-trial evidence revealed that Mr. JC, the documented reporter of the phony 1998 sexual assault accusation, obstructed justice in 2017 by denying <u>any</u> involvement when contacted by the prosecution and Captain AD (Mr. Daniels' then-defense counsel). Moreover, he also falsely claimed he did not know Ms. TS according to Captain AD. This apparently false denial—along with Captain AD's decision not to provide the email (for nearly six years) that showed his response—

prevented Mr. Daniels from calling JC as a material witness to challenge TS's credibility and motive (the new email evidence along with any future affidavit from Major AD can corroborate this fact).

- In 2023, Captain AD acknowledged that she had located a 2017 email in which Mr. JC **denied** any involvement in the 1998 report. However, she withheld the physical email for nearly six years after trial. Although she briefly told Mr. Daniels in 2017 that someone named "JC" had been contacted but was allegedly not the correct individual, **she conducted no meaningful follow-up to verify that claim**. Approximately six months after Mr. Daniels' 2017 conviction, it was discovered that Captain AD had accepted a future position in the prosecution's appellate division. During that same period, she retained physical custody of the email and failed to provide it to Mr. Daniels, who was by then incarcerated due to the wrongful conviction. Only after Mr. Daniels filed a motion with a higher court, years later—and after repeated requests directing AD to turn over the email—was she ultimately compelled to produce the concealed message in 2023. Its disclosure allowed the issue to be properly investigated for the first time, revealing evidence that implicated Mr. JC and supported a motive to fabricate. That evidence, along with additional findings obtained in 2025, is material to disproving multiple materially false statements made by Ms. TS during the 2017 trial.

VIII. NEWLY DISCOVERED EVIDENCE OF FRAUD

Newly discovered evidence—including sworn declarations, forensic reports, and documentary proof—demonstrates that military prosecutors knowingly relied on solicited

perjury, fabricated exhibits, and false circumstantial narratives to secure convictions. They suppressed material evidence (such as the 1998 "connected case" referenced by AFOSI), ignored other exculpatory evidence, introduced a staged 911 call, and misled the panel through deliberate omissions and misrepresentations.

These acts constitute **fraud on the court** as defined in *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), and violated Petitioner's constitutional rights under *Napue v. Illinois*, 360 U.S. 264 (1959); *Giglio v. United States*, 405 U.S. 150 (1972); and *Brady v. Maryland*, 373 U.S. 83 (1963).

The prosecution's overarching strategy appeared to center on speculative "attempt" charges—unique to the military—filed under multiple specifications of Article 133, UCMJ. These legally dubious charges were apparently intended to create a **spillover effect**, suggesting that Petitioner "might have" done something improper in 1998. To achieve this, the government ignored evidence disproving its own witnesses, relied on emotionally charged but misleading claims, and distorted the truth to overwhelm the jury.

Notably, the pretrial investigating officer—tasked with objectively assessing the legal sufficiency of the charges—recommended that **five of the eight specifications** be dismissed for lack of probable cause or evidentiary merit. Instead of following this impartial legal assessment, the prosecution proceeded by amplifying weak charges through false testimony, withheld evidence, and the use of staged and misleading exhibits.

As a result, convictions were obtained not through a fair trial, but through **institutional deception and constitutional misconduct**. Federal criminal complaints

have been filed—or are in progress—against seven individuals involved in this scheme, based on documented acts of perjury, obstruction, and fraud.

The following examples detail the specific misconduct and the newly uncovered evidence that now disproves it:

1. **ARTICLE 133 – Specification: Backyard Misrepresentation**

- **Charge:** Daniels falsely claimed he did not go into the backyard of 2505 Toron Court on/about 9 Dec 2014. He claimed he was in a side yard of the home.
- **New Evidence:**

  Exhibits B, C: Mr. TW's Declaration confirms Daniels had lawful access and lived at the residence (for the purpose of retrieving his property—that is, a rightful possessory interest). Mr. TW investigated the area in question in 2014 and confirmed the existence of a "side yard"—corroborating what Mr. Daniels told the police during question in 2014. Mr. TW produced **color photos taken from Fairfax Detective EM's investigation camera** in 2014 demonstrating that EM materially lied at Daniels' 2017 trial when the prosecutors solicited her to testify that the surveillance cameras she installed were in a tree in the back yard. Color photos from EM's own camera show Daniels entered the *side yard*, not the backyard. Prosecutors had access to EM's color photos when she materially lied to support the charge and wrongful conviction.
- **Prosecutorial Fraud:** Prosecutors and Detective EM knowingly lied to the jury by stating the area Mr. Daniels was observed in (while recovering his personal property) was the backyard. They completely omitted the existence of the side yard area—the specific location where **all** of the police surveillance photos

captured Mr. Daniels looking for his property. Mr. TW's sworn declaration demonstrates his review of all of the photos and Mr. Daniels' location. The prosecution had possession of the color photos at the time of Mr. Daniels' trial—proving that they knew EM was lying. In fact, they relied on that material lie to fool the jury. Furthermore, they omitted the fact Mr. Daniels had a legal right to be on the property. Their efforts appeared to be to falsely portray Daniels as a trespasser.

2. **ARTICLE 133 – Specification: Email Misrepresentation**

- **Charge:** Daniels allegedly impeded police by refusing to provide his official Air Force email address during questioning on 16 December 2014.
- **Evidence: Exhibits D, E and Clemency Submission (2017)**: Mr. Daniels' previously submitted Clemency Package under the Rules for Court Martial (Rule 1105) confirms that, at the time, he held multiple government email addresses due to his unique assignment and the Air Force's ongoing command-wide email migration. Additionally, the JER (Joint Ethics Regulation) barred Mr. Daniels from disclosing his official government email to unauthorized civilian investigators without prior clearance.

  Clemency Submission (2017): Demonstrates that Daniels ultimately provided his personal email address after clarification by the detectives, who clarified they were interested in personal—not official—email. The police then used that personal address to conduct their inquiry.

  Daniels also explained that due to the transition and multiple assigned addresses, he could not immediately recall which email address was current. This is

corroborated by the timeline of the Air Force's system migration during the same period.

- **Prosecutorial Fraud:** Prosecutors knowingly solicited false material testimony from Colonel KB, who stated at trial that there were no restrictions on providing official email addresses and that all personnel—including Daniels—used standard email formats. That statement was false.

  Daniels' clemency package submitted to the convening authority in 2017 included documentation disproving KB's claim and confirming the existence of multiple email formats during the transition.

  The reviewing officials ignored that exculpatory evidence and endorsed the lie that portrayed Daniels as evasive and deceptive—when, in fact, he acted in accordance with Air Force policy.

  Despite this, prosecutors misled the jury to believe Daniels willfully obstructed the investigation by withholding his official email address—even though it was made clear by the police that his official email was not what they asked for (it was immaterial to their investigation). The charge was later dismissed—further demonstrating its lack of legal or factual foundation.

3. ARTICLE 133 – Specification 3: Location Misstatement

- **Charge: Daniels falsely claimed he was not in Major DU's neighborhood on 16 Dec 2014.**
- **New Evidence:**
- **Exhibit B:** Mr. TW's sworn declaration confirms Daniels was not in Ms. DU's neighborhood—as defined by her enclosed cul-de-sac area at the 2505 Toron

Court address in Alexandria, Virginia. That is the physical address the prosecution used in the charging document. Mr. TW conducted an investigation into the address, the yard layout and the purported location of Ms. DU at the time of her staged 911. In his sworn declaration, he correctly points out that the 911 call was provably staged. That fact is corroborated by the police units who encountered her at a location far away from her falsely reported neighborhood. Mr. TW's declaration points that out as exculpatory evidence.

- **Prosecutorial Fraud:** Prosecutors knowingly used the staged 911 call—after colluding with the trial judge to admit it into evidence. To bolster the staged call, they solicited the false material testimony from Detective EM who claimed it was an authentic all under oath. As the lead investigator, EM knew or should have known it was fraudulent. Furthermore, she also know that responding units to that staged call encountered Ms. DU at least a mile away from her home—which is where she falsely reported being located at. In other words, she was positioned outside of her neighborhood. These facts corroborate Mr. Daniels' statements to the police that he was not physically in her neighborhood. Furthermore, Mr. Daniels indicated during police questioning that if they provided him a physical map of the area then he could show them exactly where he was located (specifically on the street leading away from the Walgreen's area called Elba Road). **Prosecutors and Detective EM knowingly used a staged 911 call to falsely establish proximity and intent. They deliberately presented perjurious testimony to establish incidental contact to support a stalking narrative.**

4. **ARTICLE 133 – Specification 6: Leave Request Misrepresentation**

- **Charge: Daniels misrepresented the basis for requesting emergency leave in December 2014.**
- **New Evidence:**
- **Exhibit A:** Daniels declaration confirms Lt Col M[redacted] B[redacted] —not Col KB— denied Daniels' leave request. Furthermore, Daniels provided corroborating documentation that establishes his request was for **a legitimate emergency basis (personal reasons and medical reasons).** He provided additional information relating to this within his submitted R.C.M 1105 Clemency Request to the Convening Authority in 2017.
- **Prosecutorial Fraud:** Colonel KB falsely claimed authority and denied leave under oath. Prosecutors relied on this perjury to portray Daniels as manipulative. Daniels' declaration clearly shows that Colonel KB materially lied under oath—he did not disapprove the leave request. In fact, the request via Daniels' coordinated phone call was forwarded to the parent command that did approve then disapprove the request. Furthermore, a contemporaneous memorandum from the person who coordinated the leave request was written, filed and ultimately provided to the prosecutors as part of their investigation. They know Colonel KB materially lied under oath about the leave request at the exact moment they solicited his false material testimony. As a senior officer, the jury believe his lie as honest testimony. The knowingly false testimony was solicited to paint the narrative of Daniels being a corrupt person in the face of senior military officers.

5. **ARTICLE 120 – Sexual Assault (1998 Incident)**

- **Charge: Based on alleged non-consensual acts reported by Ms. TS's 1998 associate.** The court record shows that TS provided false testimony in 2017 about the alleged 1998 assault. However, her 2017 false claim at trial added one distinct element: she alleged for the first time ever there was the element of "force" as Daniels bodyweight "could have held me down."
- **New Evidence:**
- **Exhibits J:** Mr. Daniels has previously provided extracts from the 1998 investigation report to disproves TS's claims (clothing, location, reporting party). His new evidence contains: housing records, 'phantom' neighbor who she claimed actually reported the event after purportedly hearing her cry through the walls of her home. That evidence definitively shows that the neighbor did not live in the adjoining unit "next door" to her—**she lived miles away**. Therefore, it was physically impossible for her to hear any purported crying from a "next door" unit. This demonstrates material perjury.
- **Exhibit I, J, K, L: Mr. Daniels new affidavit confirms several facts that demonstrated TS lied under oath at trial in 2017. Specifically:**

    (1) The Minot Police and North Dakota State Attorney's Office records disprove TS's false claim that Mr. Daniels asked her to drop the charges. Those records show that he had no further contact with her after her false assault accusation in 1998. In fact, his squadron commander order him at that time not to have any direct or indirect contact with her.

(2) Her next door neighbor was not named Tammy—which is the consistent assertion she gave investigators in 1998. The neighbor's name was S[redacted]—and there is no record that S[redacted] ever knew of Ms. TS or reported her allegation. The only existing record of the reporter's actual identity shows Mr. JC falsely reporting events that have been subsequently investigated as of 2025—and are now disprovable. Of note: The correct "JC" was presumably located prior to trial; however, he denied having anything to do with the incident or even knowing of Ms. TS. A criminal complaint against him is pending.

(3) Based on a review of all investigation reports, notes and other documentation, Mr. Daniels wore pants during the night in question. Ms. TS falsely testified she wore shorts.

(4) TS falsely claimed under oath that she dropped out of school essentially, and ran away after the purported incident in 1998. An ongoing investigation demonstrates she remained enrolled at Minot State through December 1998; and thereafter relocated—as she previously told Mr. Daniels she would do when she invited him to her home in 1998. TS also falsely claimed in her statements and submitted documentation that the event left her traumatized to the point where she does not and cannot trust men or be close to anyone. Mr. Daniels' ongoing 2025 investigation proves that Ms. TS obtained a job at a highly visible strip club after she relocated from North Dakota. The investigation also showed she had been arrested and punished for Welfare Fraud (for an amount over $200) and

sued for occupying a home after eviction or notice. She also had multiple instances of requiring or seeking public assistance over several years. However, at trial she portrayed as an innocent victim.

- **Prosecutorial Fraud:** Prosecutors knowingly presented Ms. TS's materially false testimony without correction, despite inconsistencies with the 1998 investigative record in their possession. (1) They allowed Ms. TS to testify that she was held down by Mr. Daniels' bodyweight—adding, for the first time, the element of "force" in 2017—despite that claim never appearing in the original 1998 allegation (she did not indicate any purported "force" in 1998 reports). (2) They further endorsed the false narrative that a "next door neighbor" reported the incident, despite records showing the actual reporter was a male associate named "JC" and he was concerned about military investigators disclosing his association with TS to his wife. (3) Housing records and Library of Congress phone books confirm no person named "Tammy" lived in the adjoining unit—which is the name she falsely gave 1998 police investigators as the actual neighbor. (4) Prosecutors also failed to correct TS's false claim that she dropped out of school and moved away due to trauma, even though Minot State records show she remained enrolled for months after the alleged event. (5) The government permitted Ms. TS to falsely testify that Daniels asked her to drop the charges—contradicted by North Dakota law enforcement records and Daniels' military orders barring contact with her. (6) Critically, prosecutors withheld and failed to investigate a key 1998 witness—Mr. JC—who made the original police report and later denied involvement in 2017, thereby blocking Mr. Daniels from impeaching

the credibility of the original report. Despite this denial being **documented** in an email initially concealed by military defense counsel for nearly six years, prosecutors did nothing to disclose or correct the suppression, effectively constructively participating in the concealment of exculpatory evidence tied to a critical reporting witness. (7) Prosecutors also failed to turn over the "connected case" that is referenced as material in the AFOSI 1998 hand notes. Furthermore, they are still subjected to an ongoing Discovery Request to hand over material evidence—including the hidden "connected case" that was suppressed.

These coordinated failures enabled the prosecution to falsely bolster TS's credibility, conceal contradictions in her timeline, and insulate her from impeachment—thereby defrauding the court and the panel of a materially accurate understanding of the 1998 incident.

IX. RELIEF REQUESTED

1. Acknowledge the documented fraud on the court now in the Court's possession;
2. Order a fact-finding hearing under *United States v. DuBay*, 37 C.M.R. 411 (C.M.A. 1967);
3. Authorize subpoenas for four or five key witnesses under Rules for Courts-Martial (R.C.M.) 703(e)(2)(B);
4. Alternatively, issue findings to support a future remand decision from CAAF for further fact-finding;
5. Refer the matter for ethics and misconduct review to the Department of Defense (DoD) Inspector General (IG) or Air Force Professional Responsibility Branch (PRB);

6. Grant any other relief necessary to restore constitutional integrity and public trust; Order the government to turn over the hidden "connected case" that was suppressed;
7. Recognize the Petitioner's separate request for independent executive review by the President of the United States and criminal referral of the committed obstruction or fraud for federal investigative action.

X. LEGAL QUESTIONS PRESENTED BY THIS PETITION

I. Whether a military conviction must be set aside where the government knowingly introduced a staged 911 call and false testimony, tainting the trial and violating the Petitioner's Fifth Amendment Due Process rights.

II. Whether the presentation of materially false evidence by trial counsel, with full awareness by the judge, constitutes fraud on the court under *Hazel-Atlas Glass Co. v. Hartford-Empire Co*., 322 U.S. 238 (1944).

III. Whether judicial and prosecutorial misconduct at trial, ignored by the SJA and CA, constitutes institutional fraud justifying post-conviction relief.

IV. Whether military appellate courts can decline to redress proven fraud on the court while still retaining jurisdiction under the All Writs Act.

XI. IMPACT ON CONSTITUTIONAL LEGITIMACY OF SUPREME COURT REVIEW

The U.S. Supreme Court previously reviewed the most serious charge in this case, the Article 120 specification, on a record that was materially tainted by fraud. Because the U.S. Air Force appellate system failed to correct the record or acknowledge known

prosecutorial misconduct, the Supreme Court was denied access to the full truth. This raises a separate constitutional legitimacy issue under *Hazel-Atlas*.

Judicial integrity requires correction of records corrupted by fraud, regardless of procedural posture. A decision built on falsehoods—no matter how high the court—cannot stand as legitimate.

XII. INDEX OF EXHIBITS AND SUPPORTING EVIDENCE

The following exhibits are submitted in support of this petition. Each item is referenced in the body of this writ or described in **Section VIII**. Petitioner respectfully requests the Court review these materials as independently verifiable evidence of fraud on the court:

Exhibit A – Declaration of Mr. Humphrey Daniels III (2025) – Refuting Article 133 Leave Request Misrepresentation.

Exhibit B – Declaration of Mr. TW – Establishing lawful residence and access to side yard (Article 133, Backyard Charge).

Exhibit C – Color Photographs from Detective EM's Surveillance – Confirms side yard entry, not backyard.

Exhibit D – Email Chain Showing Col KB Was Not Leave Authority – Refutes false testimony under Article 133.

Exhibit E – Clemency Submission (2017) with Email Address Explanation and JER Citation.

Exhibit F – Phone Records from December 2014 – Disproves stalking allegations and shows Ms. DU's pre-contact.

Exhibit G – ADT Billing Records – Confirms Daniels upgraded security system in Ms. DU's residence.

Exhibit H – Forensic DNA Lab Report – Disproves condom planting allegations (side yard).

Exhibit I – Minot Police and North Dakota State Attorney Office Records –

Refuting Article 120 charge (1998).

Exhibit J – Housing Records and Library of Congress Phonebook – Proves 'neighbor' who heard cries did not live next door.

Exhibit K – Archived Email from JC Denying Involvement – Concealed by trial defense counsel until 2023.

Exhibit L – AFOSI 1998 Hand Notes Referencing Suppressed 'Connected Case' – Material Brady Violation.

XIII. APPLICABLE LAW AND LEGAL STANDARD

1. **The All Writs Act (28 U.S.C. § 1651(a)).**

   This statute authorizes "all courts established by Act of Congress" to "issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." The Air Force Court of Criminal Appeals (AFCCA), as an Article I court, has authority to issue writs of extraordinary relief to preserve the integrity of its jurisdiction, especially when no other adequate remedy is available.

2. **Fraud on the Court.**

   In *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944), the Supreme Court held that "fraud on the court" consists of intentional schemes by officers of the court—such as prosecutors or judges—that defile the judicial process itself. It is distinct from mere perjury or evidentiary error; it encompasses conduct that undermines the impartial administration of justice and invalidates the legitimacy of the judgment. When such fraud is proven, the resulting judgment is void and must be set aside.

3. **Due Process Violations.**

   The Fifth Amendment prohibits the government from securing convictions through false evidence or the suppression of material facts. In *Napue v. Illinois*, 360 U.S. 264 (1959), and *Giglio v. United States*, 405 U.S. 150 (1972), the Supreme Court confirmed that the knowing use of false testimony—even if not directly solicited—violates Due Process. Staged evidence, solicited perjury, and suppression of exculpatory material each constitute independent and cumulative Due Process violations.

4. **Availability of Relief in Military Courts.**

   In *United States v. Denedo*, 556 U.S. 904 (2009), the Supreme Court reaffirmed that military appellate courts have authority to issue extraordinary writs, including writs of error coram nobis, to correct fundamental errors in courts-martial. Relief is appropriate when constitutional or jurisdictional defects—such as fraud—undermine the integrity of the trial, and when traditional avenues of relief (such as direct appeal or Article 73 petitions) are inadequate or unavailable.

5. **Remedy.**

   Once fraud on the court is demonstrated, "no judgment can be permitted to stand," *Hazel-Atlas*, 322 U.S. at 246. The proper remedy may include vacatur of the conviction, a *DuBay* fact-finding hearing, or referral for additional proceedings to address institutional misconduct. The focus is not solely on prejudice to the accused, but on preserving the legitimacy of the judicial process itself.

XIV. SEPARATE BASIS FOR RELIEF DESPITE LIMITED REMAND

The remand from CAAF in this case, while focused on sentencing-phase error under *Harrington*, does not restrict this Court from exercising its jurisdiction under the All Writs Act to address fraud on the court. The acts described herein constitute a categorical breakdown of the adversarial process that is not constrained by a limited appellate mandate. Fraud on the court is not a waivable issue; it implicates the judicial institution itself.

Petitioner does not seek to expand the remand directive. Rather, this petition invokes a separate, collateral basis for review based on post-conviction evidence that could not have been presented at trial or during direct appeal due to suppression, concealment, and institutional inaction. As such, this Court retains jurisdiction to provide relief under *Hazel-Atlas*, *Napue v. Illinois*, 360 U.S. 264 (1959), *Giglio v. United States*, 405 U.S. 150 (1972), and *Denedo*.

XV. IMPACT OF FRAUD ON THE COURT AND JURY DELIBERATIONS

The trial judge's decision to admit a staged 911 call—after private, off-the-record review—tainted the entire fact-finding process. The call was presented to the panel as genuine and was used to falsely portray Petitioner as a threat. Prosecutors then elicited perjured testimony from law enforcement witnesses to bolster its credibility.

Compounding this misconduct, the military judge issued a jury instruction on "prior consistent statements" that explicitly named the government’s star witness (Tonja Schultz), despite her having been impeached by more than seven material contradictions. Although the *Military Judges’ Benchbook*, **DA Pam. 27-9 (10 Sep. 2014)**, permits

naming a witness in rare cases, it cautions that doing so must not be done when it suggests judicial endorsement of credibility. In this case, the naming of Ms. Schultz did just that—conveying that her prior statements were more trustworthy than the impeachment evidence. This violated the Benchbook guidance that judges must not, *under any circumstances*, appear to signal a belief in the truthfulness of any witness's testimony.

This judicial act improperly endorsed her credibility and signaled to the panel that the court itself believed her prior statements to be truthful—undermining the defense's impeachment strategy and violating the presiding judge's duty of neutrality.

Although the jury instructions stated that each charge must be considered separately, the cumulative impact of the fraudulent 911 call, the improper jury instruction about "consistent statements", and the perjured testimony overwhelmed the panel's ability to independently assess each charge. Courts have long recognized that **emotionally charged** or **fabricated evidence** can create a "spillover effect," contaminating the jury's deliberation across unrelated charges.

This "spillover" risk is recognized in both military and civilian jurisprudence. Although military panel members are instructed to compartmentalize their findings on each charge, the use of emotionally charged, fabricated evidence—such as a staged 911 call—can **irreparably distort the panel's perception** of the accused. See *United States v. Humpherys*, 57 M.J. 83, 90 (C.A.A.F. 2002) ("Spillover may occur when evidence admissible on one charge improperly influences the findings on a separate charge."). Thus, the taint from the staged 911 call and related misconduct was not surgically confined to one specification—**it infected the entire panel's deliberative process**.

Accordingly, even though the staged 911 call directly impacted one charge, its prejudicial effect spilled across all charges—rendering the verdict and sentence constitutionally infirm.

CERTIFICATE OF COMPLIANCE

1. This Petition contains 6,713+ words, as determined by the word count function of the word-processing software used to prepare this document.

2. This Writ complies with the typeface and type style requirements of the Air Force Court of Criminal Appeals Rules of Practice and Procedure, as it uses 12-point Times New Roman font.

DATED this 5th day of June 2025.

[redacted]

Humphrey Daniels, III

MR. HUMPHREY DANIELS, III
Pro Se Petitioner

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were **electronically** mailed to the Court and to the Director, Air Force Government Trial and Appellate Counsel Division, on June 5, 2025.

[redacted]

Humphrey Daniels, III

MR. HUMPHREY DANIELS, III
Pro Se Petitioner

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MR. HUMPHREY DANIELS, III
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UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS

In re Humphrey Daniels III ***Petitioner***	)	**Misc. Dkt. No. 2025-06**
	)	**NOTICE OF DOCKETING**

On 5 June 2025,* Petitioner filed with this court a petition for extraordinary relief under the All Writs Act, 28 U.S.C. § 1651(a) in the above-styled case.

Accordingly, it is by the court on this 11th day of June, 2025,

ORDERED:

The case is assigned Misc. Dkt. No. 2025-06 and is 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
ANNEXSTAD, WILLIAM J., Colonel, Senior Appellate Military Judge
DOUGLAS, KRISTINE M., Colonel, Appellate Military Judge

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

[redacted]

TANICA S. BAGMON
Appellate Court Paralegal

* Petitioner's certificate of filing and service and exhibits A—L were filed on 6 June 2025.