

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

UNITED STATES)	No. ACM 40311
<i>Appellee</i>)	
)	
v.)	
)	ORDER
Codi A. IRVIN)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>)	Panel 1

On 27 April 2023, Appellant’s counsel submitted a Motion to Examine Sealed Material, requesting permission for appellate counsel for the Appellant and the Government to examine Prosecution Exhibit 1 and its attachments, the stipulation of fact. Upon this court’s initial review of the record, it discovered Prosecution Exhibit 1 and its attachments were ordered sealed by the military judge at trial but were not sealed in the record of trial filed with the court. On 1 May 2023, the court granted Appellant’s Motion to Examine Sealed Material, sealed Prosecution Exhibit 1 in the record retained by the court, and ordered the Government to retrieve and destroy any unauthorized copies.

Upon further review of the record, it was discovered that Attachments 2 and 3 of Prosecution Exhibit 1 were not appended to the exhibit. Attachment 2 is identified as “Child Pornography – six video files (1 disc),” and Attachment 3 is identified as “Aggravation Evidence – four picture files (1 disc).” Both attachments are missing from the record.

Accordingly, it is by the court on this 12th day of May, 2023,

ORDERED:

The record of trial in Appellant’s case is returned to the Chief Trial Judge, Air Force Trial Judiciary, for correction under R.C.M. 1112(d) to account for Prosecution Exhibit 1, and any other portion of the record that is determined to be missing or defective hereafter, after consultation with the parties. *See* Article 66(g), UCMJ, 10 U.S.C. § 866(g); R.C.M. 1112(d)(2)–(3). Thereafter, the record of trial will be returned to this court for completion of its appellate review under Article 66(d), UCMJ, 10 U.S.C. § 866(d).

The record of trial will be returned to the court not later than **5 June 2023**. If the record cannot be returned to the court by that date, the Government will inform the court in writing not later than **23 May 2023** of the status of the Government's compliance with this order.



FOR THE COURT

A handwritten signature in blue ink that reads "Fleming E. Keefe".

FLEMING E. KEEFE, Capt, USAF
Deputy Clerk of the Court