

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

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|---------------------------------|---|----------------------|
| UNITED STATES |) | No. ACM 40291 |
| <i>Appellee</i> |) | |
| |) | |
| v. |) | |
| |) | ORDER |
| Triston D. JOHNSON |) | |
| Airman First Class (E-3) |) | |
| U.S. Air Force |) | |
| <i>Appellant</i> |) | Panel 2 |

On 10 March 2022, Appellant was convicted by a general court-martial at Minot Air Force Base, North Dakota, of one specification of possessing child pornography in violation on Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934.¹ The military judge sentenced Appellant to a dishonorable discharge, confinement for 14 months, forfeiture of all pay and allowances, and reduction to the grade of E-1.

On 4 April 2023, Appellant’s counsel submitted a Consent Motion to Examine Sealed Materials, requesting permission for appellate counsel for the Appellant and the Government to examine Prosecution Exhibits 11–13, 18–19, 21 and 23.

Upon this court’s review of the record, we discovered Prosecution Exhibits 11–23 missing.² Consequently, the record of trial in Appellant’s case is to be returned to the Chief Trial Judge, Air Force Trial Judiciary, for correction under Rule for Courts-Martial (R.C.M.) 1112(d). As the record is being returned, we find Appellant’s motion to examine sealed material to be moot. However, Appellant may again file a motion to view sealed materials after the case has been redocketed with this court.

Accordingly, it is by the court on this 11th day of April, 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 Exhibits 11–23, and any other portion of the record that is

¹ All references in this order to the UCMJ and Rules for Courts-Martial are to the *Manual for Courts-Martial, United States* (2019 ed.).

² The court notes that Preliminary Hearing Officer (PHO) Exhibit 13 is also absent from the record of trial.

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 **9 May 2023**. If the record cannot be returned to the court by that date, the Government will inform the court in writing not later than **2 May 2023** of the status of the Government’s compliance with this order.

It is further ordered:

Appellant’s Consent Motion to Examine Sealed Material is **MOOT**.



FOR THE COURT

Carol K. Joyce

CAROL K. JOYCE
Clerk of the Court