

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

<b>UNITED STATES</b>	)	<b>No. ACM S32689</b>
<i>Appellee</i>	)	
	)	
<b>v.</b>	)	
	)	<b>ORDER</b>
<b>Garrett LEEPER</b>	)	
<b>Senior Airman (E-4)</b>	)	
<b>U.S. Air Force</b>	)	
<i>Appellant</i>	)	<b>Panel 1</b>

On 8 February 2022, Appellant submitted a Motion to Withdraw from Appellate Review and Motion to Attach. Specifically, Appellant moved to attach DD Form 2330, *Waiver/Withdrawal of Appellate Rights in General and Special Courts-Martial Subject to Review by a Court of Criminal Appeals*, signed by Appellant and Appellant’s counsel on 7 February 2022 and 8 February 2022, respectively.

Appellant also moved to attach a declaration by Appellant, dated 7 February 2022. In this declaration, Appellant requests a judge advocate performing final appellate review of his record under Article 65(d)(3), Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 865(d)(3), Rule for Courts-Martial (R.C.M.) 1115(f)(3), and R.C.M. 1201(e),<sup>1</sup> “transmit to the convening authority a recommendation to dismiss Charge II and its two specifications *with prejudice*.” (Emphasis added). According to Appellant, as part of his plea agreement with the convening authority, the convening authority agreed to “dismiss, without prejudice, Charge II, Specification 1 and Specification 2, and Charge II . . . to ripen into prejudice upon completion of appellate review in which the findings and sentence have been upheld.” After Appellant’s plea of guilty was accepted, and Appellant was sentenced, trial counsel withdrew and dismissed Charge II and its specifications *without prejudice*.” (Emphasis added).

The Government did not submit any opposition to the Motion to Withdraw and Motion to Attach.

Accordingly, it is by the court on this 15th day of February, 2022,

**ORDERED:**

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<sup>1</sup> References in this order to the UCMJ and Rules for Courts-Martial are from the *Manual for Courts-Martial, United States* (2019 ed.).

Appellant's Motion to Withdraw from Appellate Review and Motion to Attach is **GRANTED**. Appellant's case is forwarded to the Appellate Records Branch, JAJM, for further processing in accordance with R.C.M. 1115(f)(3) and R.C.M. 1201.

Regarding Appellant's request to the judge advocate performing final appellate review of his record to transmit a recommendation to the convening authority to withdraw Charge II and its specifications with prejudice, as this court has granted Appellant's motion to withdraw from appellate review, this court declines to make a recommendation or address this matter.



FOR THE COURT

A handwritten signature in black ink, appearing to read "Anthony F. Rock".

ANTHONY F. ROCK, Capt, USAF  
Deputy Clerk of the Court