

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

UNITED STATES)	No. ACM 40485
<i>Appellee</i>)	
)	
v.)	
)	ORDER
Aaron R. WILLIAMS II)	
Airman (E-2))	
U.S. Air Force)	
<i>Appellant</i>)	Special Panel

On 9 July 2024, this court issued an order noting the court-martial convening order, Special Order A-10, dated 29 December 2022, was missing from Appellant’s original record of trial. This court ordered the Government to show good cause “as to why this court should not remand the record for correction under Rule for Courts-Martial 1112(d), or take other corrective action.”

In response, on 19 July 2024, the Government submitted a motion to attach a declaration from Captain (Capt) JK, the Chief of Military Justice at Minot Air Force Base, dated 12 July 2024. Capt JK’s declaration explained that although “[t]he individuals with knowledge of [Appellant’s] case are no longer assigned to this office, and [Capt JK] cannot speak to the factors which may have led to these documents not being appropriately documented,” he found an electronic signed copy of Special Order A-10, dated 29 December 2022, in a folder under Appellant’s case name on a shared drive. A copy of this order was attached to Captain JK’s declaration. The Government stated the declaration and attached order were “relevant and necessary to address whether the record of trial is complete.”

On 22 July 2024, Appellant opposed the Government’s motion to attach, contending the record is incomplete and the attached documents were insufficient to correct the record in accordance with the process set forth in Rule for Courts-Martial 1112(d)(2). Appellant further contended Captain JK’s declaration was inadequate to authenticate the order attached to it as the missing Special Order A-10.

“A substantial omission renders a record of trial incomplete and raises a presumption of prejudice that the Government must rebut.” *United States v. Henry*, 53 M.J. 108, 111 (C.A.A.F. 2000) (citations omitted). “Insubstantial omissions from a record of trial do not raise a presumption of prejudice or affect

that record’s characterization as a complete one.” *Id.* “Whether an omission from a record of trial is ‘substantial’ is a question of law which [appellate courts] review de novo.” *United States v. Stoffer*, 53 M.J. 26, 27 (C.A.A.F. 2000). Each case is analyzed individually to decide whether an omission is substantial. *United States v. Abrams*, 50 M.J. 361, 363 (C.A.A.F. 1999).

The “prerequisites that must be met for courts-martial jurisdiction to vest” include, *inter alia*, “a properly convened and composed court-martial.” *United States v. Ali*, 71 M.J. 256, 261 (C.A.A.F. 2012) (citing R.C.M. 201(b); *United States v. Harmon*, 63 M.J. 98, 101 (C.A.A.F. 2006)). “The record of trial in every general and special court-martial shall include . . . [a] copy of the convening order and any amending order.” R.C.M. 1112(b)(3).

Accordingly, it is by the court on this 6th day of August, 2024,

ORDERED:

The Government’s Motion to Attach dated 19 July 2024 is **GRANTED**.

It is further ordered:

The record of trial in Appellant’s case is **REMANDED** to the Chief Trial Judge, Air Force Trial Judiciary, for correction under R.C.M. 1112(d) to account for the convening order, and any other portion of the record that is determined to be missing or defective hereafter, after consultation with the parties. *See* 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, UCMJ, 10 U.S.C. § 866, not later than **6 September 2024**.



FOR THE COURT

Carol K. Joyce

CAROL K. JOYCE
Clerk of the Court