

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

UNITED STATES)	No. ACM 40290
<i>Appellee</i>)	
)	
v.)	
)	ORDER
Keen A. FERNANDEZ)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>)	Panel 2

On 19 October 2021 and 26–28 January 2022, Appellant was tried by a general court-martial at Joint Base Andrews-Naval Air Facility Washington, Maryland. He was convicted of one charge of wrongfully distributing child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934.*

On 4 November 2022, Appellant’s counsel submitted a Motion to Examine Sealed Material, requesting to examine Appellate Exhibits IX and XIX; and Prosecution Exhibits 5, 10, and 11.

Upon this court’s review of the record, we discovered Prosecution Exhibit 5, which is a computer disc, to be cracked. As a result, the disc is inoperable and the court is unable to view the contents of Prosecution Exhibit 5. 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 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 17th day of November, 2022,

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 the correct version of sealed Prosecution Exhibit 5, 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

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

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 **16 December 2022**. If the record cannot be returned to the court by that date, the Government will inform the court in writing not later than **14 December 2022** of the status of the Government's compliance with this order.

It is further ordered:

Appellant's Motion to Examine Sealed Material is **MOOT**.



FOR THE COURT

A handwritten signature in black ink, appearing to read "Anthony F. Rock", is written over the printed name.

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