UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS

UNITED STATES	)	**No. ACM S32781**
Appellee	)	
	)	
v.	)	
	)	**ORDER**
Quincy O.T. INGRAM	)	
Airman (E-2)	)	
U.S. Air Force	)	
Appellant	)	**Panel 3**

On 8 July 2024, counsel for Appellant submitted a Motion for Enlargement of Time (First) requesting an additional 60 days to submit Appellant's assignments of error. The Government opposes the motion.

The court has considered Appellant's motion, the Government's opposition, case law, and this court's Rules of Practice and Procedure. Accordingly, it is by the court on this 11th day of July, 2024,

ORDERED:

Appellant's Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error not later than **18 September 2024.**

Beginning with the fifth request for enlargement of time, Appellant's counsel shall, in addition to the matters required under this court's Rules of Practice and Procedure, include a statement as to: (1) whether Appellant was advised of Appellant's right to a timely appeal, (2) whether Appellant was provided an update of the status of counsel's progress on Appellant's case, (3) whether Appellant was advised of the request for an enlargement of time, and (4) whether Appellant agrees with the request for an enlargement of time.

Appellant's counsel are further advised that any future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, will not be granted absent exceptional circumstances.

FOR THE COURT

[redacted]

OLGA STANFORD, Capt, USAF
Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,*	)	**APPELLANT'S MOTION FOR ENLARGEMENT OF TIME (FIRST)**
v.	)	
	)	Before Panel No. 3
Airman (E-2) **QUINCY O. T. INGRAM,** United States Air Force, *Appellant.*	)	No. ACM S32781
	)	8 July 2024

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 60 days, which will end on **18 September 2024**. The record of trial was docketed with this Court on 21 May 2024. From the date of docketing to the present date, 48 days have elapsed. On the date requested, 120 days will have elapsed.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

[redacted]

SAMANTHA M. CASTANIEN, Capt, USAF
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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 8 July 2024.

SAMANTHA M. CASTANIEN, Capt, USAF
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9 July 2024

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Airman (E-2) QUINCY O. T. INGRAM, USAF, *Appellant.*	))))))))))	UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME ACM S32781 Panel No.3

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

[redacted]
MARY ELLEN PAYNE
Associate Chief, Government Trial and Appellate Operations Division
Military Justice and Discipline
United States Air Force
(240) 612-4800

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 9 July 2024.

MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,*	)	**APPELLANT'S MOTION FOR ENLARGEMENT OF TIME (SECOND)**
v.	)	
	)	Before Panel No. 3
Airman (E-2) **QUINCY O. T. INGRAM,** United States Air Force, *Appellant.*	)	No. ACM S32781
	)	6 September 2024

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **18 October 2024**. The record of trial was docketed with this Court on 21 May 2024. From the date of docketing to the present date, 108 days have elapsed. On the date requested, 150 days will have elapsed.

On 6 November 2023, Appellant was tried by a special court-martial sitting as a military judge alone at Joint Base San Antonio-Lackland, Texas. R. at 1, 11-12. Appellant was convicted, consistent with his pleas of one charge and one specification of dereliction of duty, in violation of Article 92, Uniform Code of Military Justice (UCMJ), and one charge and two specifications of wrongful drug use and possession, respectively, in violation of Article 112a, UCMJ. R. at 12-13, 72. The military judge sentenced Appellant to 40 days of confinement and a bad-conduct discharge. R. at 85. The convening authority took no action on the findings or sentence. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Airman Quincy O.T. Ingram,* dated 21 Nov 23.

The record of trial is three volumes consisting of two prosecution exhibits, no court exhibits, no defense exhibits, and four appellate exhibits; the transcript is 86 pages. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. Undersigned counsel has completed her review of the Record of Trial. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JORDAN L. GRANDE, Capt, USAF
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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 6 September 2024.

JORDAN L. GRANDE, Capt, USAF
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10 September 2024

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Airman (E-2) QUINCY O. T. INGRAM, USAF, *Appellant.*	))))))))))	UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME ACM S32781 Panel No.3

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

[redacted]

MARY ELLEN PAYNE
Associate Chief, Government Trial and Appellate Operations Division
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(240) 612-4800

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 10 September 2024.

MARY ELLEN PAYNE
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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,*	)	**APPELLANT'S MOTION FOR ENLARGEMENT OF TIME (THIRD)**
v.	)	
	)	Before Panel No. 3
Airman (E-2) **QUINCY O. T. INGRAM,** United States Air Force, *Appellant.*	)	No. ACM S32781
	)	8 October 2024

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **17 November 2024**. The record of trial was docketed with this Court on 21 May 2024. From the date of docketing to the present date, 139 days have elapsed. On the date requested, 180 days will have elapsed.

On 6 November 2023, Appellant was tried by a special court-martial sitting as a military judge alone at Joint Base San Antonio- Lackland, Texas. R. at 1, 11-12. Appellant was convicted, consistent with his pleas of one charge and one specification of dereliction of duty, in violation of Article 92, Uniform Code of Military Justice (UCMJ), and one charge and two specifications of wrongful drug use and possession, respectively, in violation of Article 112a, UCMJ. R. at 12-13, 72. The military judge sentenced Appellant to 40 days of confinement and a bad-conduct discharge. R. at 85. The convening authority took no action on the findings or sentence. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Airman Quincy O.T. Ingram,* dated 21 Nov 23.

The record of trial is three volumes consisting of two prosecution exhibits, no court exhibits, no defense exhibits, and four appellate exhibits; the transcript is 86 pages. Appellant is not currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information. Appellate defense counsel is currently assigned 18 cases; 14 cases are pending before this Court (13 cases are pending AOEs); and 1 case is pending a Grant Brief before the United States Court of Appeals for the Armed Forces (CAAF). One case has priority over the present case:

1. *United States v. Roan*, No. 24-0104/AF – Undersigned counsel is currently researching and drafting the Grant Brief for a two-issue appeal to the CAAF, due 20 November 2024. Undersigned counsel anticipates oral argument for this case will be early next year.

Undersigned counsel has been unable to prepare a brief for Appellant's case. Undersigned counsel has completed her review of the Record of Trial. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 8 October 2024.

[redacted]

JORDAN L. GRANDE, Capt, USAF
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10 October 2024

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Airman (E-2) QUINCY O. T. INGRAM, USAF, *Appellant.*	))))))))))	UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME ACM S32781 Panel No.3

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

[redacted]

MARY ELLEN PAYNE
Associate Chief, Government Trial and Appellate Operations Division
Military Justice and Discipline
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CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 10 October 2024.

MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
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(240) 612-4800

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,*	)	**APPELLANT'S MOTION FOR ENLARGEMENT OF TIME (FOURTH)**
v.	)	
	)	Before Panel No. 3
Airman (E-2) **QUINCY O. T. INGRAM,** United States Air Force, *Appellant.*	)	No. ACM S32781
	)	7 November 2024

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **17 December 2024**. The record of trial was docketed with this Court on 21 May 2024. From the date of docketing to the present date, 170 days have elapsed. On the date requested, 210 days will have elapsed.

On 6 November 2023, Appellant was tried by a special court-martial sitting as a military judge alone at Joint Base San Antonio- Lackland, Texas. R. at 1, 11-12. Appellant was convicted, consistent with his pleas of one charge and one specification of dereliction of duty, in violation of Article 92, Uniform Code of Military Justice (UCMJ), and one charge and two specifications of wrongful drug use and possession, respectively, in violation of Article 112a, UCMJ. R. at 12-13, 72. The military judge sentenced Appellant to 40 days of confinement and a bad-conduct discharge. R. at 85. The convening authority took no action on the findings or sentence. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. Airman Quincy O.T. Ingram,* dated 21 Nov 23.

The record of trial is three volumes consisting of two prosecution exhibits, no court exhibits, no defense exhibits, and four appellate exhibits; the transcript is 86 pages. Appellant is not currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information. Appellate defense counsel is currently assigned 21 cases; 18 cases are pending before this Court (16 cases are pending AOEs); and 1 case is pending a Grant Brief before the United States Court of Appeals for the Armed Forces (CAAF). Two cases have priority over the present case:

1. United States v. Roan, No. 24-0104/AF – Undersigned counsel is finalizing the Grant Brief for a two-issue appeal to the CAAF, due 20 November 2024. Any reply brief will be due after the Government's answer, sometime in late December. Undersigned counsel anticipates oral argument for this case will be early next year.

2. *United States v. Singleton*, ACM No. 40535 – Undersigned counsel took over this case from Capt Samantha Castanien on 30 October 2024, after considering new developments to Capt Castanien's docket. The trial transcript is 1,738 pages long and the record of trial is comprised of twelve volumes containing six Prosecution Exhibits, 17 Defense Exhibits, one Court Exhibit, and 89 Appellate Exhibits. Appellant is not currently confined. Undersigned counsel anticipates turning to this case as soon as the brief before CAAF is finalized.

Undersigned counsel has been unable to prepare a brief for Appellant's case. Undersigned counsel has completed her review of the Record of Trial. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time.

Respectfully submitted,

JORDAN L. GRANDE, Capt, USAF
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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 7 November 2024.

JORDAN L. GRANDE, Capt, USAF
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12 November 2024

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,* v. Airman (E-2) QUINCY O. T. INGRAM, USAF, *Appellant.*	))))))))))	UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME ACM S32781 Panel No.3

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.

[redacted]

MARY ELLEN PAYNE
Associate Chief, Government Trial and Appellate Operations Division
Military Justice and Discipline
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(240) 612-4800

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 12 November 2024.

MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,*	)	**MERITS BRIEF**
v.	)	Before Panel No. 3
Airman (E-2), **QUINCY O. T. INGRAM,** United States Air Force, *Appellant.*	)	No. ACM S32781
	)	3 December 2024

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Submission of Case Without Specific Assignments of Error

The undersigned appellate defense counsel attests she has, on behalf of Airman Quincy O. T. Ingram, Appellant, carefully examined the record of trial in this case. Appellant does not admit the findings and sentence are correct in law and fact, but submits the case to this Honorable Court on its merits with no specific assignments of error.

Respectfully submitted,

[redacted]

JORDAN L. GRANDE, Capt, USAF
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Office: (240) 612-4770
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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Division on 3 December 2024.

Respectfully submitted,

JORDAN L. GRANDE, Capt, USAF
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UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS

UNITED STATES	)	**No. ACM S32781**
Appellee	)	
	)	
v.	)	
	)	**NOTICE OF**
Quincy O.T. INGRAM	)	**PANEL CHANGE**
Airman (E-2)	)	
U.S. Air Force	)	
Appellant	)	

It is by the court on this 6th day of May, 2025,

ORDERED:

The record of trial in the above styled matter is withdrawn from Panel 3 and referred to a Special Panel for appellate review. The Special Panel in this matter shall be constituted as follows:

JOHNSON, JOHN C., Colonel, Chief Appellate Military Judge
GRUEN, PATRICIA A., Colonel, Appellate Military Judge
WARREN, CHARLES G., Lieutenant Colonel, Appellate Military Judge

This panel letter supersedes all previous panel assignments.

FOR THE COURT

[redacted]

Chief Commissioner

UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS

UNITED STATES	)	**No. ACM S32781**
Appellee	)	
	)	
v.	)	
	)	**ORDER**
Quincy O.T. INGRAM	)	
Airman (E-2)	)	
U.S. Air Force	)	
Appellant	)	**Special Panel**

This court specifies the following issue for supplemental briefing in the above-captioned case:

> WHETHER APPELLANT'S PLEA OF GUILTY TO POSSESSION OF A CONTROLLED SUBSTANCE IN VIOLATION OF ARTICLE 112A, UCMJ, 10 U.S.C. § 912A, WAS PROVIDENT, WHERE DURING THE GUILTY PLEA INQUIRY APPELLANT TOLD THE MILITARY JUDGE THAT APPELLANT DID NOT KNOW THE SUBSTANCE HAD BEEN DELIVERED TO HIS POSSESSION.

Accordingly, it is by the court on this 6th day of June, 2025,

ORDERED:

Appellant and Appellee shall file briefs on the specified issue with this court. Briefs will include a discussion on whether Appellant had knowledge he was in possession of the controlled substance (cocaine) prior to its discovery and seizure by military authorities on 26 August 2023.

Both briefs are due **not later than 20 June 2025**. The parties are authorized to file a reply brief to opposing counsel's specified issue brief, but any reply brief must be filed no later than **27 June 2025**.

FOR THE COURT

[redacted]

CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee,*	)	UNITED STATES' BRIEF ON THE SPECIFIED ISSUE
v.	)	Before Special Panel
Airman (E-2) **QUINCY O.T. INGRAM** United States Air Force *Appellant.*	)	No. ACM S32781 20 June 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

ISSUE PRESENTED

WHETHER APPELLANT'S PLEA OF GUILTY TO POSSESSION OF A CONTROLLED SUBSTANCE IN VIOLATION OF ARTICLE 112A, UCMJ, 10 U.S.C. § 912A, WAS PROVIDENT, WHERE DURING THE GUILTY PLEA INQUIRY APPELLANT TOLD THE MILITARY JUDGE THAT APPELLANT DID NOT KNOW THE SUBSTANCE HAD BEEN DELIVERED TO HIS POSSESSION.

STATEMENT OF CASE

Appellant was found guilty, consistent with his pleas, of one charge and one specification of dereliction of duty in violation of Article 92, UCMJ, and one charge and two specifications of possession and use of a controlled substance in violation of Article 112a, UCMJ. (ROT Vol. 1, *Charge Sheet*). He was sentenced to 40 days of confinement and a bad-conduct discharge. (ROT Vol. 1, *Entry of Judgment*). Appellant was in pretrial confinement for 40 days and so his sentence to confinement amounted to time served in line with his plea agreement. (ROT Vol. 2, *Offer for Plea Agreement* (*Plea Agreement*)). Appellant did not request any deferments in his sentence and the convening authority took no action on the findings or sentence. (ROT Vol. 1, *Convening Authority Decision on Action*).

STATEMENT OF FACTS

Possession of Cocaine – Stipulation of Fact

The morning cocaine was found in Appellant's room, there were health and welfare inspections in the dorms. (Pros. Ex. I, *Stipulation of Fact*). During the inspection, Appellant took the sheets off his bed and a small clear bag containing cocaine fell to the ground. (Id.) Appellant immediately stepped on the bag with his right foot. (Id.) After stepping on the bag, Appellant moved towards his desk by taking a step with his left foot but sliding his right foot. (Pros. Ex. I, *Stipulation of Fact*).

Possession of Cocaine – Plea Colloquy

The military judge explained the definition of knowing possession to Appellant by saying,

> You must be aware of the presence of the substance at the time of possession. For example, a person who possesses a package without knowing that it actually contains a drug is not guilty of wrongful possession of that drug.

(R. at 37).

Shortly after this example, Appellant confirmed he understood the elements and definitions. (Id.) He further confirmed that the elements and definitions, taken together, correctly describe what he did. (R. at 37-38).

The issue of whether Appellant knowingly possessed the cocaine found in his dorm was identified by the military judge during the plea colloquy when Appellant said that he did not see the bag of cocaine fall from his bed and accidentally stepped on it. (R. at 38). This statement led to a lengthy discussion between Appellant and the military judge as she ascertained whether he knowingly possessed cocaine. (R. at 38-47).

During that conversation, Appellant speculated that the man he used cocaine with put the bag of cocaine in his backpack because he believed Appellant wouldn't get searched. (R. at 40-

41). Appellant then described emptying his backpack onto his bed after getting back from the bar. (R. at 41). The military judge asked Appellant if he saw the bag of cocaine when he emptied his bag. (Id.) Appellant never answered the question. Instead, he said that he emptied the bag and immediately went to sleep. (R. at 42). The military judge then asked Appellant directly, "[Appellant] at what point were you knowingly in possession of the cocaine? At what point did you know that you were in possession of the cocaine? You've pled guilty to knowing possession." (R. at 42).

Appellant asked to start over and explained that when the bag of cocaine fell off his bed he accidentally stepped on it and put his sheets onto the desk but "once I seen [sic] it, I immediately recognized that it looked and was the same size bag – a one inch bag – clear bag of cocaine that was in my room – in my dorm – off my bed." (R. at 44). Appellant recognized the bag as the same type of bag that was used to hold the cocaine he snorted the night before. (R. at 44, 45).

The military judge sought clarification on when Appellant saw the bag. (R. at 45). Appellant explained that he saw the bag when he lifted his foot to see what he had stepped on. (Id.) Appellant did not contradict the stipulated to fact that he slid his foot after stepping on the bag, but did assert that he was not trying to conceal it. (R. at 46). Appellant admitted that when he lifted his foot and saw the bag he knew he had cocaine in his room. (Id.)

The military judge asked if he stepped back on the cocaine after recognizing that it was a bag of cocaine. (R. at 46). Appellant responded, "A second time? Yes, Your Honor." (Id.) Unprompted, trial defense counsel interjected, "No." (Id.) Appellant then conferred with his trial defense counsel and changed his answer to "No." (Id.)

Use of Cocaine and Dereliction of Duty

After cocaine was found in Appellant's room, a probable cause search of Appellant's urine was ordered. (*Stipulation of Fact*). Appellant tested positive for cocaine. (Id.) He was moved to Tango Flight, and returned to training Phase I which imposed a restriction that Appellant could not leave base except for appointments and with concurrence of his military training instructor. (Id.) Appellant signed a form acknowledging his Phase I duties. (Id.)

Appellant disregarded this duty and left base four times on 1 September, 3 September, 14 September, and 17 September. (R. at 25). Appellant tested positive for cocaine on two more occasions that align with him leaving base. (*Stipulation of Fact*).

ARGUMENT

APPELLANT'S PLEA OF GUILTY TO POSSESSION OF COCAINE WAS PROVIDENT BECAUSE THERE IS SUFFICIENT EVIDENCE THAT APPELLANT KNEW HE POSSESSED COCAINE AFTER IT WAS DELIVERED TO HIS POSSESSION. SHOULD THIS COURT DISAGREE, IT SHOULD REASSESS THE SENTENCE TO INCLUDE 40-DAYS OF CONFINEMENT AND A BAD-CONDUCT DISCHARGE.

Standard of Review

A military judge's decision to accept a plea of guilt is reviewed for an abuse of discretion. United States v. Prater, 32 M.J. 433, 436 (C.M.A. 1991). The acceptance of a guilty plea must be upheld unless there is a substantial basis in law and fact for questioning the plea. Id.

Law and Analysis

A. The military judge did not abuse her discretion in accepting Appellant's plea of guilty.

A military judge is afforded significant deference in obtaining an adequate factual basis to support the plea. United Sates v. Inabinette, 66 M.J. 320, 322 (C.A.A.F. 2008). This

deference is based on the acknowledgement that in guilty plea cases "an accused might make a conscious choice to plead guilty in order to limit the nature of the information that would otherwise be disclosed in an adversarial contest," and so the facts are not developed. Id. (quotation and citation omitted).

The military judge did not abuse her discretion in accepting Appellant's plea of guilty because there is not a substantial factual basis for questioning the plea. Appellant's statements during the plea colloquy, such as intentionally avoiding answering the military judge's question about whether he saw the bag of cocaine when he emptied his backpack, show that he was trying to limit the information that was presented. (R. at 42). The judge recognized this and repeatedly sought additional information to ascertain whether Appellant knowingly possessed cocaine.

Although Appellant said he did not know that the man who he used cocaine with put the bag of cocaine in his backpack, that does not negate his subsequent knowledge that he was in possession of cocaine. There are two categories of facts that indicate that Appellant knowingly possessed cocaine after it was placed in his backpack: (1) Appellant knew he possessed cocaine in his room the night before the inspection and (2) Appellant knew he possessed cocaine when he stepped back on the bag after recognizing it.

(1) *Appellant knew he possessed cocaine in his room the night before the inspection.*

Appellant said, "once I seen [sic] it, I immediately recognized that it looked and was the same size bag – a one inch bag – clear bag of cocaine *that was in my room – in my dorm – off my bed*." (R. at 44) (emphasis added). This establishes that Appellant knew there was a clear bag of cocaine in his room and on his bed before the inspection. Appellant's prior knowledge is further supported by his action of sliding his foot on the ground after he accidentally stepped on the bag because Appellant would have no reason to slide his foot along the ground unless he believed

what he stepped on was the bag of cocaine. (Pros. Ex. I, *Stipulation of Fact*). Based on this, Appellant knowingly possessed cocaine before and during the inspection and so his plea of guilty was provident.

While Appellant does later affirm that he knew he possessed cocaine when he lifted his foot, he never states that was the *only* time he knew. (R. at 46). Due to Appellant intentionally limiting the facts presented, this Court should not find his descriptions about knowing he possessed cocaine after he lifted his foot to create a substantial basis in fact to question his plea of guilty.

(2) *Even if he did not know he possessed cocaine the night before the inspection, he knowingly possessed cocaine once he identified the bag and placed his foot on it.*

When the bag of cocaine fell from Appellant's bed, he immediately stepped on it. (Pros. Ex. I, *Stipulation of Fact* at para. 5). After Appellant stepped on the bag of cocaine, he lifted his foot to see what he stepped on and recognized it as a bag of cocaine. (R. at 44, 45). There is some confusion during the plea colloquy about when Appellant stepped on the bag of cocaine and how many times, but the facts support finding that Appellant stepped on the bag *after* he recognized it as a bag of cocaine.

Appellant admitted that after he accidentally stepped on the bag of cocaine, he slid his foot along the ground as he moved towards his desk. (Pros. Ex. I*, Stipulation of Fact* at para. 5). He would have no reason to slide his foot along the ground *unless* he knew the bag of cocaine was under it. Therefore, if he wasn't already knowingly in possession of cocaine, he must have lifted his foot, identified the bag, put his foot back on the bag, and then slid his foot along the floor as he moved towards his desk. (Pros. Ex. I, *Stipulation of Fact* at para. 5). This also explains why Appellant asked if the military judge was referring to putting his foot back on the bag "a second time" when she asked if he stepped back on the cocaine. (R. at 46). Stepping

back on the bag of cocaine "a second time" implies that he stepped back on it a first time – which accords with him sliding his foot on the ground *after* he had lifted his foot and recognized the bag of cocaine. [1] These facts establish that Appellant knowingly possessed cocaine when he lifted his foot, identified it was a bag of cocaine, and put his foot back on the bag.

Whether Appellant knew he was in possession of cocaine before the inspection or he knew he was in possession when he put his foot back down on the bag of cocaine, there is not a substantial basis in fact to question his plea. This is not a case where Appellant did not understand what was required for knowing possession. The military judge provided him with a clear example of what would not be knowing possession. That example exactly reflects his conduct *if* he did not know he was in possession of cocaine. (R. at 37). Despite this, Appellant affirmed that the knowledge requirement was satisfied by his conduct. (R. at 37-38).

Given the significant deference afforded to military judges in establishing a factual basis to support a plea of guilty – particularly in situations like Appellant's where he is intentionally limiting the information coming before the fact-finder – this Court should find there is not a substantial basis in fact for questioning Appellant's plea. The colloquy establishes that Appellant knowingly possessed cocaine, and this Court should find the judge did not abuse her discretion by accepting his plea of guilty.

[1] Although Appellant denied stepping back on the bag of cocaine "a second time" this does not contradict the inference that he stepped back on it at all. The qualifier Appellant introduced in his response changed the question and his affirmative response would indicate that he stepped on the bag three times – first accidentally, then after he identified it, and then a second time after he identified it. This is likely why trial defense counsel interjected. (R. at 46).

B. If this Court finds Appellant's plea of guilty improvident, it should reassess the sentence to remain 40-days of confinement and a bad-conduct discharge.

Under Article 59(a), UCMJ, a court-martial sentence may not be held incorrect by virtue of legal error "unless the error materially prejudices the substantial rights of the accused." If a Court of Criminal Appeals (CCA) can conclude that an adjudged sentence would have been of at least a certain severity absent any error, "then a sentence of that severity or less will be free of the prejudicial effects of error; and the demands of Article 59(a)[, UCMJ,] will be met." United States v. Sales, 22 M.J. 305, 308 (C.M.A. 1986). When a finding of guilty is set aside, this Court may authorize a rehearing on sentence or, if it can, the Court may reassess the sentence. United States v. Doss, 57 M.J. 182, 185 (C.A.A.F. 2002) (citation omitted).

This Court has broad discretion first to decide whether to reassess a sentence, and then to arrive at a reassessed sentence. United States v. Winckelmann, 73 M.J. 11, 13 (C.A.A.F. 2013) (citing Sales, 22 M.J. 305). In deciding whether to reassess a sentence or return a case for a rehearing, this Court considers the totality of the circumstances as well as the following illustrative factors: (1) Dramatic changes in the penalty landscape and exposure; (2) Whether an appellant chose sentencing by members or a military judge alone; (3) Whether the nature of the remaining offenses capture[s] the gravamen of criminal conduct included within the original offenses and . . . whether significant or aggravating circumstances addressed at the court-martial remain admissible and relevant to the remaining offenses; and (4) Whether the remaining offenses are of the type that judges of the courts of criminal appeals should have the experience and familiarity with to reliably determine what sentence would have been imposed at trial. Id. at 15-16 (citations omitted).

If this Court cannot determine that the sentence "would have been at least of a certain magnitude," we must order a rehearing. United States v. Harris, 53 M.J. 86, 88 (C.A.A.F. 2000) (citation omitted).

Application of the Winkleman factors supports that this Court can reassess the sentence. Appellant was sentenced by military judge alone. There is not any change in Appellant's penalty landscape because it was fixed by the plea agreement – confinement equal to his pretrial confinement and a bad-conduct discharge. Even absent a plea agreement, Appellant could have received at least 40 days of confinement and a bad-conduct discharge for the remaining offenses. Appellant's one instance of possessing cocaine is not the most serious offense – his use and dereliction of duty are. After he was caught with cocaine in his room and tested positive for cocaine, Appellant repeatedly went off base in violation of his training restrictions and continued to use cocaine. (*Stipulation of Fact*). His utter disregard for military duty and repeated use of cocaine after knowing he was found with cocaine and tested positive capture the gravamen of his criminal conduct. Finally, violations of Article 92 and 112a, UCMJ, are the type of offenses which this Court has extensive experience and familiarity with to reliably determine what sentence would have been imposed at trial. Therefore, this Court should reassess Appellant's sentence.

In reassessing the sentence, this Court should be convinced that Appellant's sentence for repeatedly violating his duty to not leave base and using cocaine on multiple occasions would've included 40 days of confinement and a bad-conduct discharge.

CONCLUSION

For these reasons, the United States respectfully requests that this Honorable Court affirm the findings and sentence in this case, but if this Court finds Appellant's plea improvident it should reassess the sentence to remain 40 days of confinement and a bad-conduct discharge.

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CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and the Air Force Appellate Defense Division on 20 June 2025.

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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, *Appellee*,	)	**SPECIFIED ISSUE BRIEF ON BEHALF OF APPELLANT**
v.	)	Special Panel
Airman (E-2) **QUINCY O.T. INGRAM,** United States Air Force, *Appellant*.	)	No. ACM S32781
	)	20 June 2025

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

ASSIGNMENT OF ERROR

AIRMAN INGRAM'S PLEA OF GUILTY TO POSSESSION OF A CONTROLLED SUBSTANCE IN VIOLATION OF ARTICLE 112A, UNIFORM CODE OF MILITARY JUSTICE, WAS NOT PROVIDENT, WHERE, DURING THE GUILTY PLEA INQUIRY, AIRMAN INGRAM STATED HE DID NOT KNOW THE SUBSTANCE HAD BEEN DELIVERED TO HIS POSSESSION.

STATEMENT OF THE CASE

On 6 November 2023, Airman (Amn) Quincy O.T. Ingram was tried by a special court-martial consisting of a military judge alone at Joint Base San Antonio-Lackland, Texas. R. at 1, 11-12. Consistent with his pleas and pursuant to a plea agreement, Amn Ingram was convicted of one charge and one specification of dereliction of duty, in violation of Article 92, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 892, and one charge with one specification of wrongful use of a a controlled substance and one specification of wrongful possession of a controlled substance, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a. R at 12-13, 72;

Appellate Ex. II. The military judge sentenced Amn Ingram to forty days' confinement for each specification (with all periods of confinement to run concurrently) and a bad-conduct discharge.[1] R. at 85. The Convening Authority took no action on the findings or sentence. Record of Trial (ROT), Vol. 1, *Convening Authority Decision on Action*, 21 Nov. 2023.

STATEMENT OF FACTS

Amn Ingram explained that he did not know the cocaine was in his bag.

Amn Ingram pled guilty to wrongful use and possession of cocaine. R. at 13-14. He used cocaine twice while at an off-base bar in San Antonio. R. at 30. He did not pay for the cocaine on either occasion. R. at 32-32. The morning after his second use, Amn Ingram's dorm was inspected by Security Forces personnel as part of a health and welfare dormitory inspection. R. at 38; Pros. Ex. 1 at 2. Amn Ingram was instructed to remove his bed sheets and, when he did, a small baggie fell on the floor. *Id.* He "didn't notice the baggie and accidentally stepped on it." R. at 38. By the time of trial, Amn Ingram knew the substance in the bag was cocaine because it was later tested and the testing "confirmed that it was cocaine." *Id.* According to the Stipulation of Fact, Amn Ingram stepped on the bag with his right foot, took a step with his left foot towards the desk, and slid his right foot behind him, Pros. Ex. 1 at 2, but he was not trying to conceal the bag. R. at 38-39. When asked how he came into possession of the cocaine, Amn Ingram told the military judge that he believed an unnamed civilian, who had given him cocaine in a bar bathroom the night prior,

[1] Amn Ingram was credited with forty days of pretrial confinement credit. R. at 85.

placed it in his backpack because the civilian "believed there was law enforcement in the area, so he understood that I was military by looking at my book bag, and I believe he thought I would get away with it." R. at 40. Amn Ingram had placed his backpack on the sink while he went into the stall and did not know that the civilian placed the baggie of cocaine in his backpack. R. at 41. When he got home that night, he emptied the contents of his backpack onto his bed and went to sleep. *Id.* The dorm sweep occurred the very next morning. *Id.* In response to the military judge's question, "[A]t what point were you knowingly in possession of the cocaine," R. at 42-43, Amn Ingram told the military judge:

> So I had left base and went to a bar off base. I met a civilian. We were talking and chatting a lot. We went to the bathroom. That is where I ended up using. And also, I left my bag, which is a military style bag, on the sink, and he was talking to me about there being suspicion of investigators or police in the area, so I believe he put it into my bag, thinking that I would not get searched or I could get away.
>
> I used the bathroom, then I came out. As I got back to the dorm, I emptied out my bag onto my unmade bed, because it was my bag, my bed. I didn't have any roommates or anybody in there. And I just threw my hoodie on the floor and the Gatorade on my desk, and I just went to sleep.
>
> Woke up the next morning, there was a raid, and were told to go to the OC field, and they were calling us by floors. I went upstairs to my dorm, was instructed to take my sheets off my bed. I removed my sheets off my bed, and as I am moving it from the top to bottom, I accidentally stepped on it. And I put my sheets down onto the desk nearby, but once I seen it, I immediately recognized that it looked and was the same bag – a one-inch bag – clear bag of cocaine that was in my room – in my dorm – off of my bed.

R. at 43-44. He again stated that the first time he saw the cocaine was when he moved his foot, and "recognized it was the same clear one-inch bag" that he had seen

the night before. *Id.* Amn Ingram denied that he was attempting to slide the bag underneath his desk with his foot and denied that he was attempting to conceal it. R. at 45-46. Amn Ingram denied stepping back on the cocaine a second time after he initially lifted his foot and saw the bag of cocaine. R. at 46. He stated that after he saw the cocaine, he "walked away" because "Security Forces told [him] to step away and to clear out the room." R. at 46-47. The military judge asked Amn Ingram, "Do you agree that your possession was wrongful?" and Amn Ingram responded, "Yes, Your Honor," and when asked "Why?" Amn Ingram responded, "It's against the – you're not allowed to possess any drugs." R. at 50. The following exchange then ensued:

> Military Judge: Now you said the civilian put it in your bag, so did anyone force you to possess the cocaine?
>
> Amn Ingram: No, Your Honor.
>
> Military Judge: Did you have any excuse for possessing the cocaine?
>
> Amn Ingram: No, Your Honor.
>
> Military Judge: Okay. You believe that he put it in your bag to evade law-enforcement?
>
> Amn Ingram: Yes, Your Honor.
>
> Military Judge: Do you believe that's a legal justification for possession?
>
> Amn Ingram: No, Your Honor.
>
> Military Judge: Could you have avoided possessing cocaine if you had wanted to?
>
> Amn Ingram: Yes, Your Honor.
>
> Military Judge: How so?

Amn Ingram: I wouldn't have went out, Your Honor.

Military Judge: You wouldn't have went out?

Amn Ingram: Or partake and doing it with that stranger, Your Honor.

R. at 51. The military judge did not return to this issue before ultimately finding Amn Ingram's plea to possession of cocaine provident. R. at 72.

ARGUMENT

I.

AIRMAN INGRAM'S GUILTY PLEA FOR POSSESSION OF COCAINE WAS NOT PROVIDENT WHEN HE TOLD THE MILITARY JUDGE HE DID NOT KNOW THE COCAINE WAS IN HIS DORM ROOM UNTIL HE ACCIDENTALLY STEPPED ON IT.

Standard of Review

This Court reviews a military judge's decision to accept a guilty plea for an abuse of discretion; however, this Court reviews de novo the military judge's legal conclusion that an appellant's plea was provident. *United States v. Harris*, 61 M.J. 391, 398 (C.A.A.F. 2005); *United States v. Eberle*, 44 M.J. 374, 375 (C.A.A.F. 1996). A military judge abuses his discretion when there is a "substantial basis" in law and fact "for questioning the guilty plea." *United States v. Prater*, 32 M.J. 433, 436 (C.M.A. 1991).

Law and Analysis

Amn Ingram's guilty plea was improvident because the military judge did not establish knowledge of the possession. Neither the Stipulation of Fact nor Amn

Ingram's statements during the *Care*[2] inquiry established that he knew the cocaine was in his room prior to discovering it under his foot during the dorm inspection. During the *Care* inquiry, Amn Ingram stated that did not know the cocaine had been placed in his backpack the night before the dorm inspection and only became aware of its presence in his room at virtually the exact moment that the inspectors also became aware. R. at 43-44. The military judge never established how the possession was a knowing possession, which requires that Amn Ingram "was aware of the presence of the substance at the time of possession." R. at 37. Amn Ingram's description of the events the night prior to, and morning of, the dorm inspection raised the defense of innocent possession, which the military judge was required to resolve before finding Amn Ingram's plea provident. *United States v. Martineau*, No. ACM 37987, 2012 CCA LEXIS 144 (A.F. Ct. Crim. App. Apr. 23, 2012). The military judge abused her discretion when she failed to resolve this issue because, for the plea to be provident, she was required to establish that the "acts or omission of the accused constitute the offense or offenses to which he is pleading guilty." *Care*, 40 C.M.R. 247.

1. *There was no evidence in the record that Amn Ingram knew the cocaine had been placed in his backpack.*

The elements of possession of a controlled substance under Article 112a, UCMJ, are: (1) that the accused possessed a controlled substance; and (2) that the possession by the accused was wrongful. *Manual for Courts-Martial, United States*

[2] *United States v. Care*, 40 C.M.R. 247 (C.M.A. 1969).

(MCM), Part IV, ¶ 50b (2019 ed.). "Possession must be knowing and conscious." *Id*. at ¶ 50c(2). "An accused may not be convicted of possession of a controlled substance if the accused did not know that the substance was present under the accused's control." *Id.* Amn Ingram told the military judge on multiple occasions that the first time he knew there was cocaine in his dorm room was when he lifted his foot after pulling the sheets off his bed and saw the bag under his foot. R. at 43-44. When asked how the cocaine came into his possession, Amn Ingram repeatedly stated he *believed* the stranger who gave him cocaine in the bar bathroom the night before the dorm inspection placed the bag of cocaine in his backpack. *Id.* Amn Ingram guessed that this occurred while he was in the bathroom stall and had left his backpack on the sink. R. at 41. He did not know that the stranger placed the cocaine in his backpack. *Id*. He did not purchase the cocaine he used and was never knowingly in possession of the bag of cocaine that night in the bathroom. R. at 30-32.

Amn Ingram's statements about how the cocaine came into his possession amounted to an educated guess at best, which is an insufficient basis to find the plea provident because it does not establish the possession was wrongful. *See United States v. Weeks*, 71 M.J. 44, 46 (C.A.A.F. 2006) ("If an accused's admissions in the plea inquiry do not establish each of the elements of the charged offense, the guilty plea must be set aside."). The UCMJ "requires that a guilty plea be in accordance with actual facts" because an accused must be, "in fact, guilty." *United States v. Davenport*, 9 M.J. 364, 366-67 (C.M.A. 1980). A providence inquiry that does not show a consistent factual basis is insufficient to support a finding of guilty. *Id.* In this

case, there is no factual basis to support the plea. Amn Ingram only testified that he "*believe[d]*" the cocaine was placed in his bag; there were no facts elicited that established conclusively how the cocaine came into his possession. R. at 39. Although the Stipulation of Fact *suggested* that he placed his foot on the baggie of the cocaine in an attempt to conceal it, Amn Ingram swore under oath that he did not. R. at 38-39; Pros. Ex. 1 at 2. This factual inconsistency was not resolved by the military judge.

In determining whether a guilty plea is provident, the test is whether there is a substantial basis in law and fact for questioning the guilty plea. *United States v. Stein*, No. ACM 38142, 2013 CCA LEXIS 818, at *2 (A.F. Ct. Crim. App. Sep. 10, 2013) (citing *United States v. Jordan*, 57 M.J. 236, 238 (C.A.A.F. 2002)). Here, the military judge abused her discretion because she did not ensure Amn Ingram provided an adequate factual basis to support the plea during the providence inquiry. *See Care*, 40 C.M.R. 247. The facts, as elicited, show that Amn Ingram was unaware that the cocaine was in his possession until he accidentally stepped on the bag in his dorm room, and this factual basis does not support a knowing possession. *See United States v. Higgins*, 40 M.J. 67, 68 (C.M.A. 1994) (quoting *Davenport*, 9 M.J. at 367); *see also United States v. Rothenberg*, 53 M.J. 661, 662 (A.F. Ct. Crim. App. 2000) (holding that the military judge must establish "not only that the accused himself believes he is guilty but also that the factual circumstances as revealed by the accused himself objectively support that plea.") The military judge was required to either resolve this factual inconsistency and elicit facts that were consistent with a knowing possession or reject the plea.

2. Amn Ingram's statements raised a defense of innocent possession, which the military judge was required to resolve.

Amn Ingram attempted to plead guilty to possession of the cocaine by summarily acknowledging that his possession was "wrongful"; however, his statements about how he came into the possession of the cocaine raised a possibility of innocent possession. Based on his testimony, Amn Ingram was unaware that the cocaine had been placed in his backpack and was unaware of its presence in his room while he was still in dominion and control of that room. R. at 42-43. By the time that he was aware of the bag of cocaine, he was no longer exercising control of the room; the inspectors were. Pros. Ex. 1 at 2, ¶ 5; 9. The military judge was required to either resolve this apparent inconsistency or reject the plea as to the specification. "[I]f an accused 'sets up [a] matter inconsistent with the plea' at any time during the proceeding, the military judge must either resolve the apparent inconsistency or reject the plea." *United States v. Garcia*, 44 M.J,. 496, 498 (C.A.A.F. 1996) (quoting Article 45(a), UCMJ, 10 U.S.C. § 845(a)). *See also* RCM 910(e), *Discussion* ("If any potential defense is raised by the accused's account of the offense or by other matters presented to the military judge, the military judge should explain such a defense to the accused and should not accept the plea unless the accused admits facts which negate the defense.").

Under certain circumstances, possession of a controlled substance may be "innocent." *United States v. Martineau*, No. ACM 37987, 2012 CCA LEXIS 144, at *3 (A.F. Ct. Crim. App. Apr. 23, 2012) (citing *United States v. Kunkle*, 23 M.J. 213, 215 (C.M.A. 1987)). In *Martineau*, this Court found that a military judge abused his

discretion when he accepted the appellant's guilty plea to possession of Hydrocodone. *Id.* at *4-5. In that case, the appellant stated during his providence inquiry that he found the drugs while cleaning out his car and believed an acquaintance of his had dropped the drugs while riding in the car the previous day. *Id.* at *2. He testified that he was unaware that the drugs were in his car at all until he discovered them only twenty minutes before he was apprehended by law enforcement, and he intended to dispose of the drugs shortly after he discovered them. *Id.* at *2, *4. Just as the military judge in *Martineau* abused his discretion by failing to engage the appellant as to whether the innocent possession defense could have applied, the military judge in Amn Ingram's case was required to explore innocent possession with Amn Ingram to satisfy the providence of his plea. Her failure to do so was an abuse of discretion.

The facts in Amn Ingram's case paint an even more obvious example of innocent possession than in *Martineau*, because Amn Ingram only became aware of the presence of the cocaine in his bedroom simultaneously with law enforcement. R. at 43-44. There was no point between his visit to the bar bathroom and the discovery of the cocaine during the inspection in which Amn Ingram knowingly possessed the cocaine. *Cf. United States v. Angone*, 57 M.J. 70 (C.A.A.F. 2002) (holding that innocent possession did not apply where the appellant knowingly took possession of a marijuana cigarette which he discovered unattended in his shared apartment and then attempted to conceal it from law enforcement). While it is not clear whether the military judge understood she had to resolve this conflict, even if she had resolved it through "circumstantial evidence," this too, would have been in error. While it is true

that a court can make inferences using circumstantial evidence, a court is not allowed to contradict direct evidence from the statements in the *Care* inquiry. Art. 45(a), UCMJ. Therefore, the military judge could not *infer* that Amn Ingram had the requisite intent because the statements he made asserted the opposite.

3. The additional concessions the military judge secured from Airman Ingram do not ameliorate the error of failing to establish knowledge.

Because the military judge failed to establish knowing possession, Amn Ingram's summary concessions to the military judge's questions do not overcome the errors in the plea. *United States* v. *Negron*, 60 M.J. 136, 141-43 (C.A.A.F. 2004) (holding that, despite the appellant's conclusory responses to the military judge's leading questions, the providence inquiry was "fatally deficient" where the military judge failed to elicit a factual basis to support the plea). For example, Amn Ingram answered "Yes" when asked whether his possession was wrongful and he answered "No" when asked whether anyone forced him to possess the cocaine, and whether he had any excuses for possessing it. R. at 50-51. These conclusory responses do not resolve the factual insufficiency of his plea, because they do not overcome the military judge's failure to elicit facts that established how Amn Ingram knowingly possessed cocaine, and the military judge did not elicit facts to resolve the potential defense of innocent possession. *See United States v. Gosselin*, 62 M.J. 349, 352-53 (C.A.A.F. 2006) ("These conclusory responses to the military judge's questions . . . are not sufficient for us to find [the appellant]'s plea provident. Conclusions of law alone do not satisfy the requirements of Article 45, UCMJ, and Rule for Courts-Martial 910(e).").

The only facts provided by the Stipulation of Fact and Amn Ingram's statements during the *Care* inquiry describe an innocent possession. The military judge was required to "elicit 'factual circumstances as revealed by the accused himself [that] objectively support that plea[.]'" *Stein*, 2013 CCA LEXIS 818, at *2 (quoting *Jordan*, 57 M.J. at 238 (quoting *United States v. Davenport*, 9 M.J. at 367)). The military judge abused her discretion when she failed to ensure that a factual basis for the element of "wrongfulness" existed. *Id.* at *2 (citing *United States v. Barton*, 60 M.J. 62, 64 (C.A.A.F. 2004)).

WHEREFORE, Amn Ingram requests that this Court set aside the finding of guilty for possession of cocaine and re-assess his sentence to set aside the bad conduct discharge.

Respectfully submitted,

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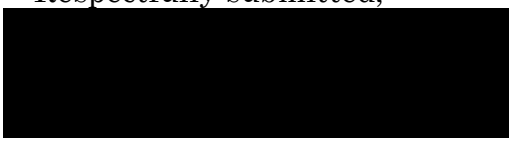
CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Government Trial and Appellate Division on 20 June 2025.

Respectfully submitted,



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