

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

UNITED STATES)	No. ACM 40896
<i>Appellee</i>)	
)	
v.)	
)	ORDER
Kenyan D. NIXON)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>)	Panel 2

On 26 February 2026, in its order, this court granted Appellant’s motion to view several sealed materials. We also noted one of the requested sealed exhibits, Appellate Exhibit XVIII, a DVD labeled “[MR] OSI interview excerpt . . . [d]ated 30 Apr 2024,” is blank. This exhibit was sealed by the military judge at trial. Therefore, we further ordered the Government to show good cause why this court should not return Appellant’s case to the Chief Trial Judge, Air Force Trial Judiciary, for correction of the record relating to the missing content of Appellate Exhibit XVIII.

On 12 March 2026, the Government filed its answer to the court’s show cause order, accompanied by a motion to file portions of its answer under seal. We granted such motion. On this same date, the Government moved this court for leave to file a request “to file this motion and permission to electronically copy and transmit via DoD SAFE one copy of the missing Appellate Exhibit XVIII from the servicing base legal office, through [appellate government counsel], to this [c]ourt.” The Government reasons that remand is not warranted and that such process is “a more efficient and economical method of correction.” We disagree.

“[I]f a record is incomplete or defective, a court reporter or any party may raise the matter *to the military judge for appropriate corrective action.*” R.C.M. 1112(d)(2) (emphasis added). A superior competent authority such as Courts of Criminal Appeals may also return the record of trial *to the military judge for correction under this Rule. Id.* Upon notice of the matter, “[t]he military judge shall give notice of the proposed correction to all parties (of the court-martial) and permit them to examine and respond to the proposed correction” *Id.*

The court has considered Government's motion, lack of response by Defense, case law, and this court's Rules of Practice and Procedure.

Accordingly, it is by the court on this 24th day of March, 2026,

ORDERED:

Appellee's Motion For Leave to File and Motion to Copy and Transmit Sealed Materials, dated 12 March 2026, is **DENIED**.

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 missing Appellate Exhibit XVIII, 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(d), Uniform Code of Military Justice, 10 U.S.C. § 866(d).

The record of trial will be returned to the court not later than **15 April 2026**. If the record cannot be returned to the court by that date, the Government will inform the court in writing not later than **13 April 2026** of the status of the Government's compliance with this order.



FOR THE COURT

Carol K. Joyce

CAROL K. JOYCE
Clerk of the Court