

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

UNITED STATES	)	No. ACM 40765
<i>Appellee</i>	)	
	)	
v.	)	
	)	ORDER
David T. Raines	)	
Master Sergeant (E-7)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	Special Panel

On 28 May 2026, Appellant submitted his assignments of error brief to this court. The Government submitted its answer on 20 July 2026, and Appellant replied to the Government’s answer on 10 August 2026.

During our Article 66, Uniform Code of Military Justice, 10 U.S.C. § 866,* review of Appellant’s case, we discovered the disc containing the audio from the closed sessions was unable to play the audio of two of the closed session dates. Specifically, 9 January 2024 and 4 June 2024 are unplayable on the disc. In addition, we discovered page 1809 is missing from the record of trial (ROT). Page 113 of Appellate Exhibit (App. Ex.) IV is not marked. Instead the next page is marked as 113. The Exhibit Index states App. Ex. V is 101 pages; the ROT exhibit contains 47 pages. App. Ex. VII says it is four pages; the ROT exhibit is 18 pages. Finally, App. Ex. CXXIV, the audio replayed in open court, is unplayable in its current format. Neither party raised these issues before the court.

Rule for Courts-Martial (R.C.M.) 1112(b) provides that the record of trial shall contain, *inter alia*, “[e]xhibits, or, if permitted by the military judge, copies, photographs, or descriptions of any exhibits that were received in evidence and any appellate exhibits”

“A record of trial found to be incomplete or defective before or after certification may be corrected to make it accurate.” R.C.M. 1112(d)(2). A Court of Criminal Appeals “may return a record of trial to the military judge for correction under this rule. The military judge shall give notice of the proposed correction to all parties and permit them to examine and respond to the proposed

* All references to the Uniform Code of Military Justice and the Rules for Court-Martial are to the *Manual for Courts-Martial, United States* (2024 ed.).

correction.” *Id.* The military judge may take corrective action by, *inter alia*, “re-constructing the portion of the record affected.” R.C.M. 1112(d)(3)(A). Department of Air Force Instruction (DAFI) 51-201, *Administration of Military Justice*, ¶ 21.15 (9 Jan. 2026, as amended by DAFGM 2026-02, 4 Feb. 2026), reinforces that “[a] defective or incomplete ROT is corrected in accordance with R.C.M. 1112(d). A Certificate of Correction is prepared and certified by the military judge detailed to the case.”

“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). “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).

Therefore, we return the record of trial to the Chief Trial Judge, Air Force Trial Judiciary, to correct the above listed errors.

Accordingly, it is by the court on this 14th day of August, 2026,

ORDERED:

Appellant’s case is **REMANDED** to the Chief Trial Judge, Air Force Trial Judiciary, to correct the following:

Ensure a disc containing the audio from the closed sessions occurring on 9 January 2024 and 4 June 2024 is supplied and playable.

Include page 1809 in the record.

Ensure App. Ex. IV is marked correctly, specifically the actual page 113, and all subsequent pages.

Either update the Exhibit Index to state App. Ex. V is 47 pages and App. Ex. VII is 18 pages, or account for pages 48 to 101 of App. Ex. V and determine what four pages of App. Ex. VII are the correct pages for the record.

Convert App. Ex. CXXIV into a playable format.

Thereafter, the record of trial will be returned to this court **no later than 18 September 2026**, for completion of its appellate review under Article 66, UCMJ, 10 U.S.C. § 866.

It is further ordered:

If the record cannot be returned to the court by that date, the Government will inform the court in writing **no later than 16 September 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