IN THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES

UNITED STATES, Appellee	)	BRIEF ON BEHALF OF APPELLEE
v.	)	Crim.App. Dkt. No. 201300426
Ruben VARGAS, Staff Sergeant (E-6) U.S. Marine Corps Appellant	)	USCA Dkt. No. 14-6009/MC

TO THE JUDGES OF THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES:

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WHETHER THE NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS ERRONEOUSLY INTERPRETED ARTICLE 62, UCMJ, TO ALLOW A GOVERNMENT APPEAL OF THE MILITARY JUDGE'S DENIAL OF A CONTINUANCE REQUEST AS WELL AS THE MILITARY JUDGE'S ORDER RESTING THE GOVERNMENT'S CASE.

II.

WHETHER THE NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS ERRED BY APPLYING THE WRONG STANDARD OF REVIEW WHEN IT VACATED THE MILITARY JUDGE'S DECISIONS TO DENY ANOTHER CONTINUANCE AND TO REST THE GOVERNMENT'S CASE.

Statement of Statutory Jurisdiction

The Navy-Marine Corps Court of Criminal Appeals had jurisdiction pursuant to Article 62(a)(1)(B), Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 862 (2012). Appellant filed a petition for review, bringing the case within this Court's jurisdiction. Article 67(a)(3), UCMJ, 10 U.S.C. § 867(a)(3) (2012)

Statement of the Case

On February 4, 2013, the Convening Authority, Commander, Headquarters and Support Battalion, Marine Corps Installations East, referred to a special court-martial one charge and one specification against Appellant for assault consummated by battery in violation of Article 128, UCMJ, 10 U.S.C. § 928 (2006). Appellant was arraigned on February 25, 2013. (R. 7.)

Appellant pled not guilty to the sole charge and specification on October 22, 2013. (R. 52.) Members were seated and instructed, and trial began the same day. (R. 140.) Later the same day, the Military Judge denied the Trial Counsel's request for an overnight continuance and rested the Government's case. (R. 192.) The next day, the Military Judge granted a Government motion to reconsider and reaffirmed her decision resting the Government's case. (R. 222.)

The United States appealed the Military Judge's decision to deny the continuance and rest the Government's case to the lower court pursuant to Article 62, UCMJ. The lower court granted the appeal and unanimously vacated the ruling of the Military Judge. *United States v. Vargas*, No. 201300426, 2014 CCA LEXIS 121 (N-M. Ct. Crim. App. Feb. 28, 2014). Appellant then filed a petition for grant of review with this Court.

Statement of Facts

A. Appellant allegedly assaulted his wife.

Appellant is accused of assaulting his wife during a domestic disturbance in their home on the evening of September 1, 2013. (Charge Sheet.) The fight was witnessed by Appellant's thirteen-year-old daughter, VV, who called 911 and reported the offense. (R. 145, 149.) During the fight, Appellant struck his wife several times, causing significant injuries to MV's face,

neck, and arms. (Pros. Ex. 3.) Appellant also sustained injuries during the altercation. (*Id*.)

B. The Military Judge forced the prosecution to rest its case before it could call all of its witnesses.

1. The prosecution's plan to present its case-in-chief.

Appellant's trial began on October 22, 2013, and was docketed to last three days. (R. 140, 189; Appellate Ex. XLIII at 1.) The first day of trial, the prosecution planned to present testimony from VV, as well as from military police officers William Keelly, Stanley Meaderds, and Fidel Barfield, all of whom responded to the scene when VV called 911. (R. 150-51, 163, 172, 177.)

The prosecution intended to call three additional witnesses on the second day of testimony: Naval Criminal Investigative Service (NCIS) Special Agent Dan Fogel, Ms. Vivian South, and Dr. Mona R. Ornelasstaneck. (R. 185, 207-11; Appellate Ex. XXXV.) Special Agent Fogel was replaced on the day of trial by Sergeant Baschnagel; both were involved in interviewing Appellant on the night of September 1, 2012. (R. 207.) The interviewing agent would have testified to admissions Appellant made——specifically that he remembered kneeling over MV, and remembered blood being on the floor. (R. 209.) Ms. South was the 911 operator who fielded the call from VV, and would provide foundation for the admission of the 911 call and transcript, both of which were

very important pieces of evidence for the prosecution. (R. 210; Pros. Ex. 1 for identification (FID).) Ms. South was working night shifts, was on duty on October 22, 2013, and had cleared her schedule to appear on October 23, 2013. (R. 186, 210.) Dr. Ornelasstaneck was the physician who treated MV approximately five days after the incident, and would testify to MV's wounds, diagnosis, and treatment. (R. 210.) Dr. Ornelasstaneck was unable to testify on October 22, 2013, because she had appointments to treat her patients. (R. 186.)

The day before trial, Trial Counsel disclosed his intent to schedule these three witnesses for the second day of trial. (Appellate Ex. XLIII at 1.) Trial Defense Counsel made no objection to this scheduling, and the matter was not litigated.

2. The continuance denial during trial.

On Tuesday, October 22, the Members were empaneled by noon and the prosecution presented testimony as scheduled from VV, as well as from the military police officers who responded. (R. 150-51, 163, 172, 177.) Testimony by these witnesses concluded at approximately 1400 on October 22. (R. 183-84.) After a brief recess, Trial Counsel moved to "continue" the trial until the following morning. (R. 184.) The Defense objected to either recessing or continuing the trial to the following day, but did not make any argument or suggestion that a delay would prejudice Appellant's interests. (R. 184, 186-87.)

The Military Judge denied the continuance, stating in pertinent part:

> Reasons for a continuance include insufficient opportunity to prepare for trial and, unavailability of an essential witness, the interest of the government in the order of trial and related cases, and illness of the accused, counsel, military judge, or other member.
> . . . .
> The court finds that [there] is not reasonable cause to delay this trial; albeit, only for one day. Considering that trial was ordered——these dates that we're finally here to today, despite all the continuances were ordered in August of this year.

(R. 187-88.)

3. The Military Judge forced the prosecution to rest its case.

Immediately after denying the prosecution request for a continuance, the Military Judge asked Trial Counsel, "Do you intend to rest or do you have any other evidence?" (R. 188.) Trial Counsel replied, "We do not intend to rest, ma'am." (R. 188.) The Military Judge also admonished Defense Counsel to be prepared to present an R.C.M. 917 motion, and stated, "[I]f your motion is denied, we're not taking further delay for you to get a witness or to determine if you're going to get a witness." (R. 188-89.)

After another brief recess, Trial Counsel moved the Military Judge to reconsider her denial of the continuance request. (R. 189.) The Military Judge denied the motion to reconsider. (R. 190.) The Military Judge said, "This decision

is not based on the court's schedule. It's based on the rights of the accused and his schedule." (R. 190.) The Military Judge opined that the real reason for the continuance was that the prosecution was "not prepared for trial as they should be." (R. 191.)

Trial Counsel then immediately invoked R.C.M. 908, stating that "the government intends . . . to exercise its right to an interlocutory appeal under Article 62. The government intends to provide seventy-two hour written notice to the military judge upon recess from this court." (R. 191.) The Military Judge replied, "You may do so. But, I am not obliged to continue the case while you do that, and I'm declining to exercise that continuance so that you may do that." (R. 191.)

The Military Judge did not grant any recess despite Trial Counsel's invocation of R.C.M. 908, and instructed Trial Counsel, "You may present additional evidence or you may rest." (R. 192.) Trial Counsel repeated that he intended to present additional evidence, and "do not intend to rest our case." (R. 192.) The Military Judge responded, "Okay. Your case is rested if you have no additional evidence to present at this time." (R. 192.) The Military Judge then asked the Defense to present its case-in-chief; and the Defense rested without presenting any evidence. (R. 192.)

4. The Military Judge then stayed proceedings pursuant to R.C.M. 908.

After denying a Defense R.C.M. 917 motion and litigating instructions on findings, the Military Judge then put the court in a brief recess. Following the recess, the Military Judge engaged both Trial and Defense Counsel in a colloquy. (R. 201-04.) Two examples serve to demonstrate the tone of this exchange.

First, the Military Judge said, "Government counsel also cited R.C.M. 908 (b) . . . and brought the court's attention to the fact that an interlocutory appeal for the government is different than an interlocutory appeal by the defense [*sic*] because the government doesn't rate appellate review after the case is done." (R. 201.) And then, the Military Judge continued, "So now you get your appeal and ask the appellate courts to intervene that you should have been granted a continuance. So, uh, I will delay the court and abate the proceedings——or stay the proceedings——uh, until——um, I'm trying to determine——I mean, I know [what] a stay is——there's no determining date." (R. 202.)

The Military Judge insisted that the Government had rested its case, even though Trial Counsel had invoked R.C.M. 908 (b) delay prior to being instructed to rest. (R. 204.) When Trial Counsel sought clarification, the Military Judge stated, "Right.

You can put that in your appeal." (R. 204.) The Military Judge did not explain her rationale, stating that "at this point in the trial, we are at findings instructions . . . [u]nless the court intervenes and tells me something different." (R. 204.) The Military Judge then called in the Members and released them for what she termed "delay in the further progress of this trial for a time uncertain." (R. 205.)

5. The prosecution moved the Military Judge to reconsider her order resting the Government's case-in-chief.

The next day, Wednesday, October 23, at 1122, the Military Judge permitted the parties to come back on the Record to litigate a Government motion to reconsider the Military Judge's order to rest the Government's case-in-chief. (R. 207; Appellate Ex. XLIII.)

The Military Judge granted the motion to reconsider, but on reconsideration affirmed the earlier decision to rest the Government's case. (R. 223.) The Military Judge made substantial findings of fact to support her decision, including the following:

> The military judge denied the government motion to reconsider its denial of the government continuance. Trial counsel then invoked its right to an interlocutory appeal of this specific issue under Article 62 of the Uniform Code of Military Justice. . . .
>
> The military judge did not stay the proceeding after the government invoked its right to appeal a

> continuance ruling. Rather the military judge stated on the record that she did not have to stay the proceeding, and that trial would continue to progress.
>
> . . . .
>
> The military judge and all parties began to finalize member's instructions and instructed the parties to return to the courtroom no later than 1530. After all parties finalized instructions, which the military judge disseminated via email, the parties reconvened in the courtroom at approximately 1530 for the intent to deliver findings instructions.
>
> Before coming back on the record, trial counsel informed the military judge, it would again state the government's intent to file an Article 32 [*sic*] interlocutory appeal. Trial counsel specifically cited R.C.M. 908 (b) and stated the court-martial may not proceed as a result of the government's intent to file an appeal.
>
> The military judge reviewed the rule and agreed with trial counsel that the proceedings would be stayed.

(R. 220-21.)

The Military Judge then stated, "If the government is granted interlocutory relief, the Court will obviously allow the government the opportunity to continue the presentation of evidence for their case-in-chief. Absent appellate intervention, the government will not be allowed an opportunity to present additional evidence in their case-in-chief." (R. 222.) The Military Judge admitted that her "ruling may appear extraordinary against the backdrop of the length of delay requested by the government." (R. 223.)

Finally, the Military Judge stated, "While the Court is considerate of issues that arise that may justify a delay in the proceedings . . . *the court is intolerant* of counsel whose practice before the Court fails to respect the dignity and authority of the Court." (R. 223 (emphasis added).) The Military Judge did not identify any specific conduct by Trial Counsel, or any other counsel, that "fail[ed] to respect" her dignity or authority.

Summary of Argument

The lower court did not err by exercising jurisdiction because the United States appealed both denial of the continuance request and the order forcing the Government to rest its case. As this Court noted in *Wuterich*, the one-judge split opinion in *Browers* did not limit the lower court's ability to entertain this interlocutory appeal, because the Military Judge's orders together limited the pool of potential evidence that would be admissible at Appellant's court-martial.

Even though the lower court adopted the Military Judge's findings of fact, it still properly evaluated the Military Judge's conclusions of law when it determined her actions constituted a clear and arbitrary abuse of discretion.

Argument

I.

UNDER THE UNIQUE CIRCUMSTANCES OF THIS CASE, THE MILITARY JUDGE'S ORDERS HERE LIMITED THE POOL OF POTENTIAL EVIDENCE ADMISSIBLE AT TRIAL. THERERFORE, UNDER *UNITED STATES V. WUTERICH*, THE LOWER COURT PROPERLY EXERCISED JURISDICTION PURSUANT TO ARTICLE 62, UCMJ.

A. Under *Wuterich*, the United States may appeal a military judge's order that limits the pool of potential evidence admissible at court-martial.

Article 62, UCMJ, authorizes the United States to appeal a military judge's order or ruling "which excludes evidence that is substantial proof of a fact material in the proceeding." Article 62, UCMJ, 10 U.S.C. § 862 (2012). In *United States v. Wuterich*, 67 M.J. 63 (C.A.A.F. 2008), this Court interpreted the term "excludes evidence" broadly to mean "limited the pool of potential evidence that would be admissible at court-martial." 67 M.J. at 75 (*quoting United States v. Watson*, 386 F.3d 304, 313 (1st Cir. 2004)). This standard controls the instant case, because the Military Judge's orders here directly limited the pool of testimony the Government was able to present.

1. *Wuterich* reconciled *Browers* with Federal practice.

In *Wuterich*, the Court undertook a lengthy deconstruction of *United States v. Browers*, 20 M.J. 356 (C.M.A. 1985), which contains dicta arguably adverse to the United States position here. In *Browers*, a one-Judge opinion penned by Chief Judge

Everett reversed an Army court decision granting interlocutory relief from the military judge's denial of a continuance, on the premise that such orders, without more, are nonappealable under the terms of Article 62. But *Wuterich* reconciled *Browers* with prevailing Federal case law interpreting 18 U.S.C. § 3731, which distinguishes between non-appealable "case management orders, entered with the purpose of preventing delay" and other orders, which have the practical effect of limiting the pool of potential evidence presented at trial, and therefore are subject to interlocutory appeal. *Id*. at 72-73 (*citing Watson*, 386 F.3d at 313).

The United States does not argue here that Article 62, UCMJ, should be construed liberally, as courts interpreting 18 U.S.C. § 3731 are admonished to do. But neither should it be construed strictly: the *Wuterich* court noted that *Browers* neither "establish[ed] a bright-line rule or a comprehensive definition of 'excludes,' nor did it otherwise hold that an order is appealable under Article 62 (a)(1)(B) 'only' if there is a formal ruling that evidence is inadmissible." 63 M.J. at 74. Rather, this Court noted, "Chief Judge Everett's observations set the stage for his conclusion on the critical issue in the case: denial of a continuance, in a case that had languished, involved a scheduling matter *that did not amount to an exclusion of evidence*." *Id*. (emphasis added).

2. Federal law informs the distinction between appealable orders and non-appealable orders.

Neither *Wuterich* nor *Browers* establishes any bright-line rule concerning whether denial of continuance or, as in this case, an order forcing the Government to rest its case, is appealable under Article 62, UCMJ. Rather, the critical distinction between appealable and non-appealable orders rests on the difference between case management orders entered to prevent delay, and orders limiting the pool of potential evidence presented at trial. In *Watson*, from which the *Wuterich* court adopted its standard, the First Circuit stated that "some case-management orders can have the direct effect of excluding evidence and, thus, can be immediately appealed by the government in a criminal case." 386 F.3d at 311 (*citing United States v. DeCologero*, 364 F.3d 12 (1st Cir. 2004); *United States v. Brooks*, 145 F.3d 446 (1st Cir. 1998)).

Such orders may include postponement orders, where the practical effect of the order "in substance" deprives the United States of relevant witness testimony. *DeCologero*, 364 F.3d at 22; *see also United States v. Colomb*, 419 F.3d 292, 301-02 (5th Cir. 2005) (proper Government interlocutory appeal of order expressly excluding testimony of new witnesses Government located after first day of trial, where judge reasoned "the government had been ready to go to trial on May 17, 2004 without

the witnesses, [and]..., since the government was prepared at that time to try the case without the testimony, it should be ready for trial without it now.”). The common denominator of all these cases is that, in Federal practice, the Government may appeal “orders having the practical effect of excluding evidence,” even if the order itself does not expressly do so. *United States v. Kane*, 646 F.2d 4, 7 (1st Cir. 1981) (*citing United States v. Horwitz*, 622 F.2d 1101 (2d Cir. 1980); *United States v. Cannone*, 528 F.2d 296 (2d Cir. 1975); *United States v. Battisti*, 486 F.2d 961 (6th Cir. 1973); *United States v. Beck*, 483 F.2d 203 (3d Cir. 1973)).

B. The lower court did not err in exercising jurisdiction because, under the unique circumstances of this case, the Military Judge’s rulings had the practical effect of limiting the potential pool of evidence presented by the Government.

The United States agrees with Appellant that *Wuterich* did not overrule *Browers.* (Appellant’s Pet. at 17.) But contrary to Appellant’s argument, (*Id*. at 14-15), *Browers* does not control the instant case. As the lower court noted, *Browers* is critically distinct because in *Browers* the “decision to deny the continuance was an issue of scheduling *and did not have the direct result of excluding evidence*.” *Vargas*, 2014 CCA LEXIS 121 at *14-*15 (emphasis added).

If the only matter in dispute here were a continuance denial, as was the case in *Browers*, the outcome would likely be

different. But the circumstances of this case critically distinguish it from *Browers*. As the lower court observed, "[b]y denying the trial counsel's motion for a recess until the next morning and then *sua sponte* resting the Government's case, the military judge effectively denied the Government the opportunity to present testimony that is substantial proof of a fact material in the proceeding." *Id*. at *15.

The Military Judge's denial of the Government's overnight continuance request and concomitant order to rest the Government's case cannot reasonably be considered in isolation. Rather, they occurred simultaneously, and in complete disregard of the Trial Counsel's invocation of R.C.M. 908(b). (R. 191-92.) They represent the brash, arbitrary decisions of the Military Judge, whose suggestion that Trial Counsel was "not prepared for trial as they should be," (R. 191), is clearly unsupported by the Record. *Vargas*, 2014 CCA LEXIS 121 at *15. On the contrary, as the lower court noted, the trial was progressing at a much faster pace than anticipated. *Id*. Trial Counsel had even disclosed to Defense Counsel, without objection, his plan to present four witnesses the first day and three the second. (Appellate Ex. XLIII at 1.)

As the lower court noted, "[n]ot only were the last three witnesses available to testify the next day, but they were intentionally scheduled by the Government on that day due to

schedule conflicts and travel considerations." *Vargas*, 2014 CCA LEXIS 121 at *17. Had the Military Judge granted the recess, the witnesses would have testified; by refusing the recess and *sua sponte* resting the Government's case, the Military Judge affirmatively closed the door on the presentation of their testimony.

Taken together, these two actions by the Military Judge therefore clearly limited the potential pool of evidence the prosecution planned to present. *See United States v. Clinger*, 681 F.2d 221, 223 (4th Cir. 1982) (balancing "minor judicial inconvenience" of continuance with "ultimate goal of our system[, which] is justice."). There is no suggestion that the case "languished," or would languish, due to a requested recess or continuance lasting less than a day, as in *Watson*. 368 F.3d at 311 (denial of lengthy continuance request a "wise and judicious exercise of the court's responsibility to manage its docket and preserve the defendants' entitlement to their timely day in court.").

C. The United States did not waive the opportunity to contest the Military Judge's improper denial of a continuance because notice of appeal was provided within seventy-two hours of this order.

Contrary to Appellant's argument, (Appellant's Pet. at 19), the United States did not waive the opportunity to contest the Military Judge's improper denial of its continuance request.

Research reveals no cases——and Appellee cites none——supporting the proposition that the United States must "preserve" issues for appeal, or that it may waive interlocutory appeal where the jurisdictional thresholds are otherwise met. Indeed, this Court has repeatedly held that the question of jurisdiction in an Article 62 appeal is not subject to waiver. *United States v. Daly*, 69 M.J. 485, 486 (C.A.A.F. 2011). On the contrary, Article 62 "provides the prosecution with an *unqualified* seventy-two hour period in which to file notice of appeal." *United States v. Neal*, 68 M.J. 289, 295 (C.A.A.F. 2010) (emphasis added).

Here, the Trial Counsel provided written notice of appeal of the Military Judge's orders denying the United States continuance and resting the Government's case within seventy-two hours of the initial order denying the continuance. (Notice of Appeal, Oct. 24, 2013.) Therefore, both matters were properly certified. R.C.M. 908(b). Even if the Trial Counsel's email on the evening of October 22, 2013, had some legal import, it was superseded by the prosecution's exercise of its unqualified right under Article 62 two days later.

Further, as the Record of Trial and appellate pleadings demonstrate, these two orders are inextricably related: the order to rest came on the heels of the continuance denial. (R. 191-92.) The Military Judge's errors in both orders are

plain, related, and ought not be considered in isolation. Consequently, the lower court properly exercised jurisdiction and considered both questions for an abuse of discretion.

II.

THE LOWER COURT PROPERLY ARTICULATED AND APPLIED THE CORRECT STANDARD OF REVIEW.

When reviewing matters under Article 62(b), military courts of criminal appeals may act only with respect to matters of law, and review the evidence in the light most favorable to the prevailing party at trial. *United States v. Baker*, 70 M.J. 283, 287-88 (C.A.A.F. 2011). "When a court is limited to reviewing matters of law, the question is not whether a reviewing court might disagree with the trial court's findings, but whether those findings are 'fairly supported by the record.'" *Id*. "'In reviewing a military judge's ruling on a motion to suppress, we review factfinding under the clearly-erroneous standard and conclusions of law under the *de novo* standard.'" *Id*. at 287 (*quoting United States v. Ayala*, 43 M.J. 296, 298 (C.A.A.F. 1995)). "Jurisdiction is *a question of law* reviewed *de novo*." *LRM v. Kastenberg*, 72 M.J. 364, 367 (C.A.A.F. 2013)(emphasis added).

On the merits of the questions appealed, the lower court properly articulated the correct standard of review:

> As a general rule, the decision whether to continue a trial to enable a party to procure an absent witness

> rests within the sound discretion of the trial court. *See* R.C.M. 906(b)(1) and Article 40, UCMJ. Continuances for the production of material witnesses are looked upon with favor, however, and the exercise of sound discretion requires that they be granted upon a showing of reasonable cause. A judge's decision will not be disturbed on appeal absent a clear showing that such discretion has been misused. An abuse of discretion exists where reasons or rulings of the military judge are clearly untenable and . . . deprive a party of a substantial right such as to amount to a denial of justice; it does not imply an improper motive, willful purpose, or intentional wrong.

Vargas, 2014 CCA LEXIS 121 at *19 (citations and internal quotation marks omitted). In evaluating the Military Judge's decisions to deny the overnight recess and *sua sponte* rest the Government's case, the lower court expressly adopted the Military Judge's findings of fact on the Trial Counsel's motion for reconsideration. *Id*. at *8 n.4. Appellant admits as much. (Appellant's Pet. at 24.) And, because the Military Judge failed to apply the correct test——or *any* test——to determine whether a continuance should have been granted, the lower court properly applied *de novo* the legal test in *United States v. Miller*, 47 M.J. 352 (C.A.A.F. 1997). *Vargas*, 2014 CCA LEXIS 121 at *20-21.

Contrary to Appellant's assertion, the Military Judge's comment that Trial Counsel "was not prepared for trial as they should be" was not a finding of fact, nor is there any suggestion in the Record that it was intended to be. (R. 191.) On the contrary, it is best understood as an editorial comment

expressed by the Military Judge in frustration. The Military Judge did not articulate this when she had an opportunity to make formal findings on the Record.

Insofar as this may be construed as a finding of fact, the lower court nevertheless correctly discarded it because it was unsupported by the Record. *United States v. Chatfield*, 67 M.J. 432, 437 (C.A.A.F. 2009); *see Baker*, 70 M.J. at 288. The lower court's analysis is part and parcel of an appellate court's review, even on interlocutory appeal. Appellant's argument to the contrary lacks merit.

Finally, insofar as the lower court reviewed the Record to determine whether it could exercise jurisdiction under Article 62, UCMJ, based on the facts before it, such review was entirely proper. Jurisdiction is a question of law, and consequently nothing in Article 62 or this Court's case law prevents the lower court from articulating its rationale for exercising jurisdiction under that statute.

Conclusion

Wherefore, the United States respectfully requests that this Court deny Appellant's petition for grant of review.

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Certificate of Compliance

1. This brief complies with the type-volume limitation of Rule 24(c) because it has a total of 4,374 words.

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Certificate of Filing and Service

I certify that the foregoing was electronically filed with the Court on June 9, 2014. I also certify that this brief was electronically served on Appellate Defense Counsel, Major Richard Viczorek, USMCR, on January 30, 2013.

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