IN THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES

UNITED STATES, Appellee v. Tanner J. FORRESTER Corporal (E-4) U.S. Marine Corps, Appellant	BRIEF ON BEHALF OF APPELLANT Crim.App. No. 201500295 USCA Dkt. No. 17-0049/MC

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

BENJAMIN A. ROBLES
Major, U.S. Marine Corps
Appellate Defense Counsel
Navy-Marine Corps Appellate Defense
Division (Code 45)
1254 Charles Morris Street SE
Bldg. 58, Suite 100
Washington, D.C. 20374
P: (202) 685-7087
benjamin.robles@navy.mil
Bar no. 36638

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Issue Presented

WHETHER PUNISHING THE SAME TRANSACTION OF OBTAINING CHILD PORNOGRAPHY WITH FOUR CONVICTIONS UNREASONABLY EXAGGERATES CPL FORRESTER'S CRIMINALITY AND TRIPLES HIS PUNITIVE EXPOSURE, CONSTITUTING AN UNREASONABLE MULTIPLICATION OF CHARGES?

Statement of Statutory Jurisdiction

Corporal (Cpl) Tanner J. Forrester's approved general court-martial sentence includes forty months of confinement and a dishonorable discharge, triggering U.S. Navy-Marine Corps Court of Criminal Appeals (NMCCA) jurisdiction under Article 66(b)(1), Uniform Code of Military Justice (UCMJ).[1] Corporal Forrester now invokes this Court's jurisdiction under Article 67, UCMJ.[2]

Statement of the Case

On May 7, 2015, a military judge, sitting as a general court-martial, convicted Cpl Forrester, contrary to his pleas, of six specifications of possessing child pornography, in violation of Article 134, UCMJ.[3] He then acquitted Cpl Forrester of five specifications of possessing child pornography, also alleged in

[1] 10 U.S.C. § 866(b)(1) (2012).
[2] 10 U.S.C. § 867(a) (2012).
[3] 10 U.S.C. § 934 (2012).

violation of Article 134, UCMJ.[4]

The Government had originally charged Cpl Forrester with seven specifications of possessing child pornography.[5] Just prior to entry of pleas, the military judge sua sponte severed four specifications into two specifications each, resulting in eleven total specifications under the sole Charge.[6]

After findings, the judge merged two of the specifications back into the original two, resulting in convictions for a total of four specifications. The chart below depicts the mergers. The shaded cells reflect the four guilty findings remaining after merger.

Spec.	Finding	Merged?	Merged with	Media
1	G	Y	Spec 2	Black Seagate external hard drive
2	G	Y	Spec 1	
3	NG	N		
4	NG	N		
5	G	Y	Spec 6	Hewlett-Packard laptop
6	G	Y	Spec 5	
7	NG	N		
8	NG	N		
9	G	N		Gmail account
10	G	N		Blue Seagate external hard drive
11	NG	N		

[4] J.A. at 0143.
[5] J.A. at 0009-0011.
[6] J.A. 0147.

On May 8, 2015, the military judge sentenced Cpl Forrester to forty months of confinement, total forfeiture of pay and allowances, reduction to pay-grade E-1, and a dishonorable discharge. On Aug 31, 2015, the Convening Authority approved the sentence as adjudged, and, except for the discharge, ordered the sentence executed.[7] On August 30, 2016, the lower court issued its opinion affirming the findings and sentence as approved by the Convening Authority.[8]

Statement of Facts

The Government charged Cpl Forrester with four specifications of possessing child pornography on the basis of identical sets of twenty-three images found on (1) a black external hard drive (Specification 1); (2) a laptop hard drive (Specification 5); (3) a blue external hard drive (Specification 9); and (4) an email account (Specification 10).[9] The trial counsel referred to this set of images as Cpl Forrester's "collection."[10]

The Government offered no evidence that the images had been downloaded more than once. At trial, the Government argued that Cpl Forrester repeatedly transferred the images he already possessed to his devices, not that he obtained

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[7] J.A. 0012.
[8] *United States v. Forrester*, No. 201500295, 2016 CCA LEXIS 519 (N-M. Ct. Crim. App. Aug. 30, 2016).
[9] J.A. 0012. A video served as the basis for three additional specifications. *Id.* The military judge acquitted Cpl Forrester of those specifications. J.A. at 0143.
[10] J.A. at 0141.

new images.[11]

Although the Record does not establish the original download date or device, the Government's computer forensics expert Ms. Newcomer testified that the earliest copies of the images came from an iPhone back-up in 2010.[12] According to Ms. Newcomer, identical sets of images[13] were copied in 2011 onto the black hard drive (Specification 1) and in 2012 onto the blue hard drive (Specification 10), all during mass file transfers consistent with data back-ups.[14] These mass transfers included large amounts of files beyond the twenty-three images of child pornography.[15]

On August 7, 2011, emails containing the set of images were sent from the Google e-mail (Gmail) account to itself.[16] The images were automatically transferred to an email client similar to Microsoft Outlook on October 2, 2011 in a mass email sync.[17] The client Windows Live Mail connected to the Gmail account and downloaded the contents of the entire account.[18] Ms. Newcomer found no evidence the emails were ever opened.[19]

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[11] J.A. at 0142.
[12] J.A. at 0037.
[13] J.A. at 0102.
[14] J.A. at 0034, 0057, 0059-60, 0096-97, 0122, 0139, 0142.
[15] J.A. at 0088-89, 0095, 0102.
[16] J.A. at 0063-64.
[17] J.A. at 0048, 0064.
[18] J.A. at 0092.
[19] J.A. at 0093.

Ms. Newcomer also found no evidence that the contraband files backed up on the external hard drives had been accessed from Cpl Forrester's laptop.[20] The files transferred from the iPhone could not be viewed without forensic software Cpl Forrester did not have on his computer.[21] In fact, none of the images found on the laptop, with the exception of the set found in an email client could be viewed by a user.[22]

After the military judge found Cpl Forrester guilty of possessing the images on three devices and in an email account, the trial defense counsel moved for the court to merge the offenses for sentencing.[23] She noted that each specification addressed "the exact same criminal conduct."[24] The military judge declined to merge the offenses.[25]

The military judge assessed the maximum confinement at ten years each for Specifications 1, 5, and 10, and four months for Specification 9, a total of thirty years and four months.[26] He sentenced Cpl Forrester to forty months of confinement, among other punishments.

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[20] J.A. at 0094, 0100.
[21] J.A. at 0088.
[22] J.A. at 0103.
[23] J.A. at 0144.
[24] *Id.*
[25] J.A. at 0144-45.
[26] J.A. at 0145.

Summary of Argument

The President prohibits unreasonable multiplication of charges. The military courts have developed the *United States v. Quiroz*[27] factors to assess for unreasonable multiplication of charges. In child pornography cases, three of those factors—whether the conduct corresponds to distinct offenses, and whether the number of charges exaggerate criminality and unreasonably increase punitive exposure—hinge on how courts understand the *actus reus* of possession.

The United States Court of Appeals for the Fifth Circuit (Fifth Circuit) established the "separate transaction" rule to assess whether possession of child pornography on separate media justifies more than one charge. The rule permits charging possession of child pornography with more than one count when the contraband was obtained in separate transactions. This rule comports with the injuries redressed by the offense.

In this case, the Government alleged that Cpl Forrester downloaded one set of images, and through repeated mass data backups copied the contraband onto two external hard drives and a laptop hard drive. The Government also alleged Cpl Forrester stored the images in an email account by sending emails from an account to the same account. The Government never alleged any separate transactions of obtaining contraband. The four guilty findings thus trace to one transaction.

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[27] *United States v. Quiroz,* 55 M.J. 334, 338 (C.A.A.F. 2001).

Nonetheless, the military judge declined to merge the offenses and the lower court affirmed that decision. This was error.

This Court should adopt the separate transaction rule, clarify its application in this case, and remand to the lower court for reconsideration in light of this Court's guidance.

Argument

THE *PLANCK* SEPARATE TRANSACTION RULE FOR POSSESSION OF CHILD PORNOGRAPHY REQUIRES SEPARATE TRANSACTIONS OF OBTAINING CONTRABAND TO JUSTIFY MORE THAN ONE POSSESSION CONVICTION. THE LOWER COURT MISAPPLIED THE *PLANCK* RULE, ALLOWING FOUR CONVICTIONS FOR THE SAME TRANSACTION OF OBTAINING CHILD PORNOGRAPHY, WHICH UNREASONABLY EXAGGERATES CPL FORRESTER'S CRIMINALITY AND TRIPLES HIS PUNITIVE EXPOSURE, CONSTITUTING AN UNREASONABLE MULTIPLICATION OF CHARGES.

Standard of Review

This Court reviews allegations of unreasonable multiplication of charges for an abuse of discretion.[28]

Analysis

"What is substantially one transaction should not be made the basis for an

[28] *United States v. Pauling,* 60 M.J. 91, 95 (C.A.A.F. 2004) (quoting *United States v. Monday*, 52 M.J. 625, 628 n.8 (A. Ct. Crim. App. Dec. 9, 1999)).

unreasonable multiplication of charges."[29] In *Quiroz*, the test for unreasonable multiplication of charges hinges on the reasonableness of correlations of the *acti rei* of charged offenses, levels of criminality, and punishment.[30] In 2007, the Fifth Circuit first explored these relationships for possession of child pornography on multiple media. In *United States v. Planck*, the Fifth Circuit established the "different transaction," rule, holding that when an accused has images stored in separate media, the Government may separately charge each medium, "as long as the ***prohibited images*** were ***obtained*** through the result of ***different transactions***."[31]

Here, Cpl Forrester came into possession of the contraband in 2010. He never obtained new images of child pornography. He merely backed-up the contraband he already possessed. Application of the *Planck* rule to this case exposes the Government's charging scheme as unreasonable. The four guilty findings should have been merged and sentenced as one specification.

A. The lower court misapplied the *Planck* rule in its *Quiroz* analysis.

In *Planck*, the Fifth Circuit held that when an accused has images stored in separate media, the Government may separately charge each medium, "as long as the ***prohibited images*** were ***obtained*** through the result of ***different***

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[29] MANUAL FOR COURTS-MARTIAL, UNITED STATES, R.C.M. 307(c)(4) (2012).
[30] *Quiroz,* 55 M.J. at 338.
[31] *United States v. Planck*, 493 F.3d 501, 504 (5th Cir. 2007) (emphasis added); *see also United States v. Woerner*, 709 F.3d 527, 540 (5th Cir. 2013).

transactions."[32] Because Planck obtained his contraband in three different transactions, the Fifth Circuit affirmed his convictions for separate counts: "***Through different transactions***, Planck possessed child pornography in three separate places . . . and, therefore, committed three separate crimes."[33] Thus, the *Planck* court intended the "transactions" in question to be different instances of obtaining the contraband.

Judge Wiener's concurrence in *Planck* discussed this point more fully. Planck had different images on different media, and had such an "overwhelming number of images and movies stored on the computers and diskettes in his house, it would exceed credulity to conclude that Planck acquired, or could have acquired, all the images and movies at the very same time."[34] Each act of possessing ***new*** images constituted a new offense. Thus, the Government could charge multiple counts because the defendant obtained the contraband in multiple transactions.

1. The *Planck* court's different transaction rule comports with the policies for punishing possession of child pornography.

The *Planck* court noted three injuries to victims of child pornography for which criminal liability provides redress. First, dissemination of images

[32] *Planck*, 493 F.3d at 504 (emphasis added); *see also Woerner*, 709 F.3d at 540.
[28] *Planck*, 493 F.3d at 505 (emphasis added); *see also United States v. Chiaradio*, 684 F.3d 265, 276 (1st Cir. 2012) ("[d]efendant's unlawful possession of a multitude of files on two interlinked computers located in separate rooms within the same dwelling gave rise to only a single count of unlawful possession . . . .").
[34] *Planck*, 493 F.3d at 506 (Wiener, J., concurring); *see also United States v. Hinkeldey*, 626 F.3d 1010, 1014 (8th Cir. 2010).

perpetuates the abuse initiated by the producer of the materials.[35] Second, the images invade the privacy of the child depicted.[36] Third, the consumer of child pornography provides an incentive to produce and distribute child pornography.[37]

Of course, separate transactions of obtaining child pornography—i.e., images not already possessed—separately injure the victims. However, shifting around images already possessed clearly does not re-injure a victim any more than repeated viewing on one device. The separate transaction rule ensures that each act of ***new*** possession, with its consequent injury to the victim, incurs liability.[38] But the rule also prevents punishing one criminal act many times.

Since *Planck*, the Fifth Circuit has maintained the "obtained" sense of transaction. In *United States v. Woerner*, the Fifth Circuit distilled its *Planck* analysis, asking "(1) [whether] Woerner possessed two or more separate materials, and (2) [whether] the images contained therein *were **obtained** through different transactions*."[39] Finding the second question "straightforward," the *Woerner* court noted that because a "large number of images and videos [were] downloaded" from two different accounts, on two different sets of dates, the jury could infer that

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[35] *Planck*, 493 F.3d at 505.
[36] *Id.*
[37] *Id.*
[38] A new download of an identical image could re-injure a victim, but the evidence does not suggest any new downloads here. J.A. at 0102, 0142.
[39] *United States v. Woerner*, 709 F. 3d 527, 540 (5th Cir. 2013) (citing *Planck*, 493 F.3d at 504) (emphasis added).

"the images in his possession were ***obtained*** through ***different*** transactions."[40] The United States Courts of Appeals for the First Circuit and Eighth Circuit have similarly understood and applied *Planck* in their respective circuits.[41]

2. The lower court adopted but misapplied *Planck*.

Even while purporting to apply *Planck*, the lower court adopted a rule of law materially different from *Planck*. In deciding this case, the lower court cited its earlier decision in *United States v. Campbell* (*Campbell I*)[42] with respect to whether charging multiple media with identical images as separate offenses exaggerates criminality: "We rejected this assertion in *United States v. Campbell*. There, we relied on the holding in *United States v. Planck*. . . ."[43] But even though the lower court quoted the *Planck* holding at length, it missed the *Planck* court's explanation that *different* transactions means that only different acts of *obtaining contraband* justify charging separate criminal acts:

> Here, the government was able to prove that the appellant took ***separate steps*** on separate dates to copy the initial 23 images to the other media devices—and ***thus completed the necessary actus reus***

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[40] *Id*. (quoting 493 F.3d at 506 (Wiener, J., concurring) ("Given the overwhelming number of images and movies stored on the computers and diskettes in Planck's house, it would exceed credulity to conclude that Planck acquired, or could have acquired, all the images and movies at the very same time.")) (emphasis added).
[41] *Chiaradio*, 684 F.3d at 276; *United States v. Hinkeldey*, 626 F.3d 1010, 1014 (8th Cir. 2010).
[42] *United States v. Campbell* (*Campbell I*), 66 M.J. 578 (N-M. Ct. Crim. App. 2008), *rev'd on other grounds*, *United States v. Campbell* (*Campbell II*),68 M.J. 217 (C.A.A.F. 2009) .
[43] *Forrester*, 2016 CCA LEXIS 519, *4-*5 (internal citations omitted).

each time he re-copied the images.[44]

The lower court, following its holding in *Campbell I*,[45] thus held that copying already-possessed files onto other media was a "different transaction" under the *Planck* test.[46] The lower court even used the term "re-copying," indicating its understanding that Cpl Forrester did not obtain new images.[47] The lower court's understanding of "transaction" failed to apply the *Planck* court's sense of obtaining new contraband.

The lower court's reliance on a flawed understanding of *Planck* thus infected its analysis of the Government's unreasonable multiplication of charges.

3. This Court should adopt the *Planck* rule.

As noted above, the *Planck* rule makes sense in light of the reasons for proscribing possession of child pornography. The Army Court of Criminal Appeals (ACCA) recently decided a case that shows why a different rule would be wrong.

In *United States v. Ramos*, the ACCA cited the NMCCA's decision in

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[44] *Id.* at *5 (emphasis added); *see also Campbell I*, 66 M.J. 578, 582; *United States v. Craig*, 67 M.J. 742, 747 (N-M. Ct. Crim. App. 2009), *aff'd* 68 M.J. 399 (C.A.A.F. 2010).

[45] 66 M.J. 580 ("It is undisputed that the appellant took possession of 38 images of child pornography by downloading them from the Internet to his government computer. He then copied these same 38 images onto six compact disks. Later, he used one of the compact disks to upload the same 38 images onto his personal computer at home.").

[46] 2016 CCA LEXIS 519 at *5.

[47] *Id.*

Campbell I approvingly: "We find persuasive the analysis and holdings of the [NMCCA] addressing this issue under 18 U.S.C. § 2252A(a)(5)(A) and Article 134, UCMJ. . . . [that] 'although images were identical, each possession on different media was a separate crime.'"[48] The ACCA asserted: "[T]he intent of the criminal prohibition is to limit possession, replication, and distribution of child pornography regardless of the type of media or storage device."[49]

But, of course, punishing possession is not intended to address production and distribution of child pornography, which would be chargeable as separate offenses precisely because they require different *acti rei*.[50]

For example, a federal statute that addresses "replication" proscribes knowingly "reproducing any child pornography ***for distribution***."[51] If there were evidence of distribution or production, the Government would be free to bring those charges against an accused. The proscription of possession addresses the harms associated only with possession. The ACCA's analysis thus depends on an

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[48] *United States v. Ramos*, 2016 CCA LEXIS 618, *7-*8 (A. Ct. Crim. App. Oct. 20, 2016) (unpub.) (citations omitted). The ACCA's lengthy analysis of this issue may amount to dicta—the accused in the case pleaded guilty and admitted in a stipulation of fact to searching for and downloading child pornography on multiple occasions. *Id.* at *4. Further, the accused did not "assert that the images are actually identical on [the two charged media]." *Id.* at *7. The A.C.C.A. ignored its prior, pre-*Planck* decision in *United States v. Burth*, 2005 CCA LEXIS 569 (A. Ct. Crim. App. Nov. 29, 2005), which found an unreasonable multiplication of charges where images on two separate media were identical. *Id.* at *4.
[49] *Id.* at *8-*9.
[50] *See* 18 U.S.C. § 2252A(a)(2) (2012).
[51] 18 U.S.C. § 2252A(a)(3)(A) (emphasis added).

expansive notion of criminality that conflicts with analogous federal law.

If the ACCA merely intended to echo the *Planck* court's third policy for punishing possession—that the consumer of child pornography provides an incentive to produce and distribute child pornography[52]—then the ACCA's conclusion simply does not follow. Backing up already-possessed images creates no additional incentive to produce or distribute child pornography beyond the incentive created by the initial transaction of obtaining the images. Thus, additional punishment and criminal liability is unwarranted.

The *Planck* rule avoids the ACCA's error by closely aligning the crime and punishment with the injury. This Court should thus adopt the *Planck* rule properly understood.

B. Analyzing Cpl Forrester's case in light of *Planck* demonstrates an unreasonable multiplication of charges.

Applying *Planck's* "different transaction" rule to the evidence in this case demonstrates that the Government's four specifications of possession punish one act of possession four times. Of particular significance, three of the media do not offer independent, ready access to the images. The two external hard drives and the email all require the laptop to be accessed. They do not, therefore, extend the harm of possession. Proper application of *Planck*, in the context of *Quiroz* factors

[52] *Planck*, 493 F.3d at 505.

two, three, and four,[53] demonstrates that Specifications 1, 5, 9, and 10 unreasonably exaggerate Cpl Forrester's alleged criminality. The other *Quiroz* factors are ambiguous at best, and thus fail to render the Government's charging scheme reasonable.

Three of the five *Quiroz* factors used to test for unreasonable multiplication of charges relate to how charges correspond to criminal activity. These factors include: whether each charge and specification aims at distinctly separate criminal acts (*Quiroz* two); whether the number of charges and specifications misrepresents or exaggerates the appellant's criminality (*Quiroz* three); and whether the number of charges and specifications unreasonably increases the appellant's punitive exposure (*Quiroz* four).[54]

1. ***Quiroz* Two: the Government's specifications address the same criminal act.**

On appeal at the lower court, the Government conceded[55] that the contraband at issue all came from one original transaction—a download. The media holding copies of the identical set of images comprise the only significant distinction between the specifications.[56] The dates overlap, and the charged

[53] *See Quiroz,* 55 M.J. at 338.
[54] *Id.*
[55] Appellee's Br. at 4-5.
[56] J.A. 0147.

locations of possession and elements of the offenses are identical.[57]

The Government's forensic witness testified that the contraband on the laptop (Specification 5) came from the black hard drive (Specification 1) as part of a mass transfer of data.[58] The laptop hard drive included the material in the email account as a result of an automatic sync with a Gmail account (Specification 9).[59] Two other mass data backups transferred the images to the blue hard drive (Specification 10).[60]

The contraband was transferred from Cpl Forrester's other devices, not through independent downloads of the material. Therefore, the four specifications all punish the same actus reus. Under *Planck*, this is impermissible. Thus, the second *Quiroz* factor weighs in favor of Cpl Forrester.

2. *Quiroz* Three: Properly applying *Planck* shows that the charges exaggerate Cpl Forrester's criminality.

Once *Planck* is properly applied, the third *Quiroz* factor (exaggerates criminality) also weighs in favor of Cpl Forrester. The same *actus reus*—a continuing act of possession—underlies each specification. The Government provided no evidence that Cpl Forrester repeatedly downloaded different sets of the same images. He could not even view the contraband in three of the charged

[57] *Id*.
[58] J.A. at 0095.
[59] J.A. 0087.
[60] J.A. at 0034.

media without using the charged laptop. The mass back-up and cloud storage did not extend the harm to victims of child pornography. Thus, the four specifications exaggerate Cpl Forrester's criminality. So the third *Quiroz* factor weighs in favor of Cpl Forrester.

3. *Quiroz* Four: Properly applying *Planck* shows that the four charges unreasonably increase Cpl Forrester's punitive exposure.

Finally, the number of specifications and convictions unreasonably increased Cpl Forrester's punitive exposure for one act of possession. The maximum punishment for Specification 5 would have been ten years of confinement. Even the trial counsel asked for seven years of confinement—less than the maximum for one specification.[61]

But the military judge sentenced Cpl Forrester based on a maximum confinement of thirty years and four months.[62] This total included ten years each for Specifications 1, 5, and 10, and four months for Specification 9. Thus, the three additional specifications more than tripled Cpl Forrester's punitive exposure. This level of punitive exposure for one *actus reus* is patently unreasonable. The fourth *Quiroz* factor therefore weighs in favor of Cpl Forrester.

4. *Quiroz* One: The ambiguity of the first *Quiroz* factor does not outweigh the substantive *Quiroz* factors.

Because the substantive *Quiroz* factors weigh so heavily in favor of finding

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[61] J.A. at 0146.
[62] J.A. at 0145-46.

unreasonable multiplication of charges, the other two factors (objection at trial and prosecutorial overreach) should not prevent this Court from consolidating the offenses.

Admittedly, the first factor (objection at trial) is ambiguous. The trial defense counsel did not specifically ask for merger of the offenses for findings, though she did ask for merger for sentencing:

> And that is due to the nature of all of the images are exactly the same with regards to each specification, as is the date range. And the only difference is the device on which it was charged. But the criminal action is the same across all specifications currently before the court.[63]

While the trial defense counsel did not use the term unreasonable multiplication of charges, her description of the problem and her requested relief apprised the judge of the issue. Even the total failure to object only weakens a claim of unreasonable multiplication of charges. The trial defense counsel's failure to precisely identify the technical legal term should therefore not weigh in the Government's favor.

5. *Quiroz* Five: Because *Campbell I* authorizes prosecutorial overreach, the lack of other significant overreach should not weigh against Cpl Forrester.

The fifth factor (prosecutorial overreach) weighs slightly in favor of the Government inasmuch as naval justice already allows gross exaggeration of criminality and punitive exposure, rendering further overreach superfluous.

[63] J.A. at 0144.

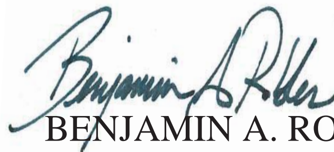
In *Campbell I*, the lower court misapplied *Planck*. That court's approach to unreasonable multiplication of charges in cases involving child pornography has given the Government free rein to charge multiple specifications for the same act of possession. Thus, under the lower court's rule, obtaining images several years prior, without evidence of obtaining additional contraband, enables the Government to charge multiple offenses and more than triple the maximum punishment. Prosecutorial overreach is built into Department of the Navy case law. The lack of specific additional overreach by the trial counsel should therefore weigh little in the overall *Quiroz* analysis.

Conclusion

In short, because the lower court misapplied *Planck* to this case, it failed to properly analyze its *Quiroz* analysis. In particular, the lower court failed to recognize the extent to which four guilty findings for possession of the identical set of images punished the same *actus reus* of obtaining the images four times, exaggerated Cpl Forrester's criminality, and unreasonably increased his punitive exposure.

Because the contraband at issue here was obtained through one download it properly comprised one offense of possession. This Court should adopt the *Planck* rule, clarify its application to unreasonable multiplication of charges, and remand

to the lower court for further consideration in light of this Court's new guidance.



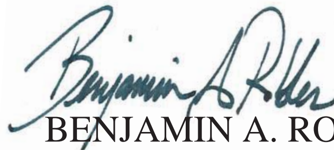
BENJAMIN A. ROBLES
Major, U.S. Marine Corps
Appellate Defense Counsel
Navy-Marine Corps Appellate Review Activity
1254 Charles Morris Street, SE
Bldg. 58, Ste. 100
Washington Navy Yard, DC 20374
T (202) 685-7087
F (202) 685-7426
Benjamin.Robles@navy.mil
Bar no. 36638

CERTIFICATE OF FILING AND SERVICE

I certify that on February 13, 2017, I electronically filed the foregoing with the Court, with copies electronically delivered to the Appellate Government Division and Director, Administrative Support Division, Navy-Marine Corps Appellate Review Activity.

CERTIFICATE OF COMPLIANCE

This brief complies with the page limitations of Rule 21(b) because it contains fewer than 9,000 words. Using Microsoft Word version 2010 with 14-point Times New Roman font, this supplement contains 4,792 words.



BENJAMIN A. ROBLES
Major, U.S. Marine Corps
Appellate Defense Counsel
Navy-Marine Corps Appellate
Review Activity
1254 Charles Morris Street SE
Bldg. 58, Suite 100
Washington, D.C. 20374
P: (202) 685-7087
benjamin.robles@navy.mil
Bar no. 36638