

of Criminal Appeals (CCA) as required by United States v. Williams, CAAF LEXIS 501 (C.A.A.F. 2024). Since Appellant did not raise the issue under Article 66(d)(2) at AFCCA, there is nothing about AFCCA's actions with respect to Article 66(d)(2) for this Court to review.

ISSUES PRESENTED

I.

WHETHER THE LOWER COURT ERRED BY HOLDING THAT [APPELLANT] HAD WAIVED ADMISSION OF HIS DRUG REHABILITATION RECORDS WHEN THE MILITARY JUDGE FAILED TO COMPLY WITH THE CONFIDENTIALITY REQUIREMENTS AND CONSENT PROCEDURES MANDATED BY 42 U.S.C. § 290DD-2 AND DEPARTMENT OF DEFENSE INSTRUCTION 1010.01.

II.

WHETHER, IN LIGHT OF UNITED STATES V. WILLIAMS, __ M.J. __, CAAF LEXIS 501 (C.A.A.F. 2024), THE AIR FORCE COURT OF CRIMINAL APPEALS HAD JURISDICTION UNDER ARTICLE 66(d)(2), UNIFORM CODE OF MILITARY JUSTICE, TO PROVIDE APPROPRIATE RELIEF FOR THE ERRONEOUS FIREARM PROHIBITION ON THE INDORSEMENT TO THE ENTRY OF JUDGEMENT.

III.

WHETHER THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES HAS JURISDICTION AND AUTHORITY TO DIRECT THE MODIFICATION OF THE 18 U.S.C. § 922

**PROHIBITION NOTED ON THE INDORSEMENT
TO THE ENTRY OF JUDGMENT.**

IV.

**WHETHER REVIEW BY THE UNITED STATES
COURT OF APPEALS FOR THE ARMED FORCES
OF THE 18 U.S.C. § 922 PROHIBITION NOTED ON
THE INDORSEMENT TO THE ENTRY OF
JUDGMENT WOULD SATISFY THIS COURT'S
PRUDENTIAL CASE OR CONTROVERSY
DOCTRINES.**

V.

**WHETHER THE GOVERNMENT CAN PROVE
THAT 18 U.S.C. § 922 IS CONSTITUTIONAL AS
APPLIED TO [APPELLANT].**

STATEMENT OF STATUTORY JURISDICTION

AFCCA reviewed this case under Article 66(d), UCMJ. If it grants review of this case, this Court will have jurisdiction over this matter under Article 67(a)(3), UCMJ.

STATEMENT OF THE CASE

The United States generally accepts Appellant's statement of the case.

At AFCCA, Appellant argued that the 18 U.S.C. § 922 firearms prohibition was unconstitutional as applied to Appellant and that the court had jurisdiction to decide that issue under Article 66(d)(1). But Appellant did not request relief at AFCCA under Article 66(d)(2) on the grounds that the 18 U.S.C. § 922 firearms

annotations on the Statement of Trial Results (STR) or Entry of Judgment (EOJ) constituted a post-trial processing error.

ARGUMENT

II.

AFCCA HAD NO AUTHORITY TO CORRECT THE 18 U.S.C. § 922 ANNOTATION ON THE STATEMENT OF TRIAL RESULTS OR THE ENTRY OF JUDGMENT BECAUSE APPELLANT DID NOT RAISE OR DEMONSTRATE POST-TRIAL PROCESSING ERROR UNDER ARTICLE 66(d)(2) AT AFCCA.

Standard of Review

CCA are courts of limited jurisdiction, and this Court reviews the scope of a CCA's jurisdiction *de novo*. United States v. Brubaker-Escobar, 81 M.J. 471, 473-474 (C.A.A.F. 2021).

Law and Analysis

In this case, like in Williams, “Appellant did not raise the issue to the CCA and consequently did not trigger the CCA’s correction authority under Article 66(d)(2), UCMJ.” 2024 CAAF LEXIS 501, *14. Because Appellant never raised the issue, nor met his burden to demonstrate error, AFCCA was not authorized to *sua sponte* review his case under Article 66(d)(2). Thus, there is nothing about AFCCA’s actions with respect to Article 66(d)(2) for this Court to review.

Appellant's argument in Issue II is without merit, and this Court should decline to review it.

CONCLUSION

For these reasons, the United States respectfully requests that this Honorable Court deny Appellant's petition for grant of review as to Issues I and II.



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CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was transmitted by electronic means to the Court and transmitted by electronic means with the consent of the counsel being served via email to Capt Michael J. Bruzik (Michael.Bruzik@us.af.mil) this day, 25 November 2024.

A handwritten signature in black ink, appearing to read 'SRK', is positioned above the printed name and title of the signatory.

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CERTIFICATE OF COMPLIANCE WITH RULE 24(d)

This brief complies with the type-volume limitation of Rule 24(c) because this brief contains 685 words. This brief complies with the typeface and type style requirements of Rule 37.

Dated 25 November 2024.

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