

IN THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES

UNITED STATES,
Appellee

v.

Dominique D. Wilson
Private (E-1)
U.S. Marine Corps,

Appellant

SUPPLEMENT TO PETITION FOR
GRANT OF REVIEW

Crim. App. Dkt. No. 202400373

USCA Dkt. No. 26-0174/MC

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

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Issue Presented

Whether the military judge abused his discretion by finding the parents of an adult victim suffered “direct harm” under Article 6b(b) and RCM 1001(c).

Statement of Statutory Jurisdiction

The Navy-Marine Corps Court of Criminal Appeals reviewed this case under Article 66(b)(1), Uniform Code of Military Justice (UCMJ).¹ Appellant invokes this Court’s jurisdiction under Article 67(a)(3), UCMJ.²

Statement of the Case

A general court-martial composed of a military judge alone convicted Appellant, consistent with his pleas, of the following offenses: two specifications of abusive sexual contact in violation of Article 120, UCMJ; one specification of indecent conduct in violation of Article 134, UCMJ; four specifications of violating a lawful general order in violation of Article 92, UCMJ; and one specification of assault consummated by battery in violation of Article 128, UCMJ.³ The Military Judge sentenced Appellant to concurrent confinement terms totaling fifty-three months, total forfeitures, and a dishonorable discharge.⁴

¹ 10 U.S.C. § 866(b)(1) (2024).

² 10 U.S.C. § 867(a)(3) (2024)

³ R. at 273.

⁴ R. at 358-59.

The military judge entered the findings and sentence into judgment.⁵ On appeal, the lower court found no error and affirmed the findings.⁶ Appellant timely petitioned this Court for review with a motion to file this supplement separately.

Statement of Facts

A. Appellant was fresh out of recruit training and in an environment with minimal supervision that bred immature behavior.

Following recruit training, enlisted Marines are sent to the School of Infantry at either Camp Pendleton, California or Camp Lejeune, North Carolina (SOI-E). Marines waiting to join a training company are assigned to Marines Awaiting Training Platoon (MAT Plt). This platoon is housed in a barracks with open squad bays with no individual rooms. From 2022 into 2023, the number of MAT Plt Marines swelled at SOI-E following a restructuring of the SOI training.

MAT Plt Marines complained of misconduct, resulting in a Command Investigation (CI).⁷ The CI found failures by the MAT Plt Staff that led to complacency and dereliction of duty by both students and staff.⁸

Following reports of sexual misconduct, an NCIS investigation and CI resulted in findings of wide ranging misconduct by several Marines including

⁵ Entry of Judgment (Oct. 1, 2024).

⁶ *United States v. Wilson*, No. 202400373, slip op. at 10 (N-M. Ct. Crim. App. Feb. 12, 2026).

⁷ Def. Ex. A.

⁸ Def. Ex. A at 71.

Appellant and his co-actor Pvt Abney. Appellant and Pvt Abney were both charged. Both entered into plea agreements.⁹ The worst offense Appellant and Pvt Abney plead guilty to was abusive sexual contact against Private First Class (PFC) Roberts.¹⁰

B. During the presentation of matters at sentencing, the military judge admitted victim impact statements from the parents of the named victim over defense objection.

During sentencing, the victim's legal counsel (VLC) for PFC Roberts offered unsworn statements for PFC Roberts, and his mother and father.¹¹ Appellant's defense counsel objected to the introduction of the unsworn statements of PFC Roberts' mother and father as they are not "crime victims" under R.C.M. 1001(c).¹² The military judge overruled the objection, deemed the parents crime victims and allowed the submission of their written unsworn statements.¹³

C. Appellant presented several character witnesses and made an unsworn statement.

The Defense called Appellant's staff sergeants from his home recruiting station and Appellant's mother. The staff sergeants both testified glowingly of Appellant's character and future potential.¹⁴ Specifically, one stated, "I would still

⁹ Appellate Ex. XV (plea agreement).

¹⁰ R. at 273.

¹¹ Appellate Ex. XXXIII (victim impact statements).

¹² R. at 279.

¹³ R. at 281.

¹⁴ R. at 287-89; R. at 300-01.

trust him around my family, given the circumstances of the charges. I would still trust him around my wife. I think, given the opportunity, he can still be a good man.”¹⁵ The Defense called Appellant’s mother to explain the difficulties of his childhood. She explained that she and Appellant’s father had legal trouble during his upbringing, his father began serving a sentence of life without parole, and Appellant was the youngest of three siblings.¹⁶ Appellant also introduced the CI to show the MAT Plt leadership failed to supervise and train these young men fresh from boot camp.¹⁷ Finally, Appellant made an unsworn statement apologizing to the victims and expressing remorse over how he let down the Marine Corps.¹⁸

Pursuant to the plea agreement, the military judge only had discretion to adjudge between thirty and seventy-two months of confinement.¹⁹ The military judge sentenced Appellant to fifty-three months of confinement with all charges and specifications to run concurrently, forfeiture of all pay and allowances, and a dishonorable discharge.²⁰

D. Appellant raised several issues to the lower court including the admission of the parents unsworn statements as alleged victims.

¹⁵ R. at 301.

¹⁶ R. at 306-07.

¹⁷ Def. Ex. A.

¹⁸ R. at 315-19.

¹⁹ Appellate Ex. XV at 24-25.

²⁰ R. at 358-59.

At the Navy and Marine Corps Court of Criminal Appeals (NMCCA), raised an assignment of error whether the military judge abused his discretion in finding PFC Roberts’ parents victims under RCM 1001(C)(2)(A). The Court stated “Appellant seeks a bright line rule preventing ‘limitless extension to indirect, collateral, attenuated people’ giving victim impact statements. We decline to delineate the outer limits of R.C.M. 1001(c) in this case.”²¹ The Court then found no prejudicial error for this assignment of error and affirmed the findings and sentence.²²

Reasons to Grant Review

The parents of an adult victim have not suffered “direct harm” under Article 6b(b) and RCM 1001(c).

This Court should grant review to clarify for trial practitioners the scope of “direct harm” for the purpose of determining who receives the rights of a crime victim under Article 6b(b) and RCM 1001(c), UCMJ. When Appellant raised this issue on appeal, the lower court stated, “We decline to de-lineate the outer limits of R.C.M. 1001(c) in this case.”²³ This Court has not, but should, settle this question of law.²⁴

A. Article 6b(b) limits who is a victim to those who are directly impacted by an offense.

²¹ *Wilson*, slip op. at 6.

²² *Wilson*, slip op. at 10.

²³ *Wilson*, slip op. at 6.

²⁴ C.A.A.F. R. 21(b)(5)(A).

Article 6b, UCMJ, defines two classes of people—victims of UCMJ offenses and designees. Article 6b(b) defines a “victim of an offense under this chapter” as “an individual who has suffered **direct** physical, emotional, or pecuniary harm as a result of the commission of an offense under this chapter.”²⁵ One right bestowed on victims is the “right to be reasonably heard at. . . [a] sentencing hearing related to the offense.”²⁶

Rule for Court Martial 1001(c)(2)(A) also defines a crime victim as “an individual who has suffered **direct** physical, emotional, or pecuniary harm as a result of the commission of an offense of which the accused was found guilty or the individual’s lawful representative or designee appointed by the military judge under these rules.”²⁷ A person identified as a crime victim has the option to provide a victim impact statement about the “financial, social, psychological, or medical impact **on the crime victim** relating to or arising from the offense of which the accused has been found guilty.”²⁸ Also, once declared a crime victim, they may make their statement unsworn, not subject to cross-examination.²⁹ Additionally, the statement maybe oral or written and through counsel representing the crime victim.³⁰

²⁵ 10 U.S.C. § 806b(b), Art. 6b(b), UCMJ (2024) (emphasis added).

²⁶ 10 U.S.C. § 806b(a)(4), Art. 6b(a)(4), UCMJ.

²⁷ R.C.M. 1001(c)(2)(A) (2024) (emphasis added).

²⁸ R.C.M. 1001(c)(2)(B) (emphasis added).

²⁹ R.C.M. 1001(c)(5).

³⁰ R.C.M. 1001(c)(5).

To receive the rights a victim is entitled to under both the UCMJ and Rules of Court-Martial (R.C.M.), an individual must have suffered direct harm to be defined as a victim. Direct harm is most analogous to that of legal causation. “[I]t is not normally enough merely to prove that [the] accused occasioned the harm; he must have ‘caused’ it in the strict sense.”³¹ By using the word “direct” in both R.C.M. 1001(c)(2)(A) and Article 6b(b), it is evident that both the President and Congress intended victim rights to extend only to someone the accused proximately harmed. Otherwise, another word could and would have been used. If the intent was to allow a more inclusive group of “crime victims,” either a term broader than “direct” would have been used, or it would have been left out altogether.

The phrasing of the rule and Article 6b can extend to more than victims’ names on a charge sheet.³² However, when there is a person named on the charge sheet, that person is the obvious subject of the statute and Rule 1001. Any extension outside that person has the potential to open a “never-ending chain of causes and

³¹ *State v. Frahm*, 193 Wn.2d 590, 597, 444 P.3d 595, 599, 2019 Wash. LEXIS 454, *8 (Wash. 2019) (quoting 1 WAYNE R. LAFAVE, SUBSTANTIVE CRIMINAL LAW § 6.4(c) at 472 (2d ed. 2003); H.L.A. HART & TONY HONORÉ, CAUSATION IN THE LAW 350-51 (2d ed. 1985)).

³² *See United States v. Cortez*, 2024 CCA LEXIS 536 *10 (N-M. Ct. Crim. App. Dec. 19, 2024) (NMCCA found that in individual who was the subject of a military protective order that was violated by the appellant was a crime victim.)

effects.”³³ That is why the military judge must make “an individualized decision about each person who seeks to exercise [their] right to be reasonably heard under Article 6b, to ensure he or she is a ‘crime victim.’”³⁴ Otherwise, an accused would have to defend against any and all individuals who had any connection or emotional response to the charges—and those are not “direct” impacts.

This Court should grant review to define the limits of “direct harm,” providing guidance to trial practitioners. It is logical that a named victim and those who the accused’s actions immediately impacted suffered “direct harm.” Parents of adult victims may have a place to make their harm known as evidence in aggravation under R.C.M. 1001(b)(4)—but generally not as victims suffering direct harm. To interpret the statute and rule otherwise would allow an endless parade of self-identified victims to give unsworn victim impact statements unchecked by the safeguards of cross-examination. “Direct harm” must be taken to mean something more restrictive than “any [] circumstance directly relating to or resulting from the offenses of which the accused has been found guilty.”³⁵ Otherwise, the Government will always choose to offer sentencing evidence as victim impact statements to circumvent cross-examination and rules of evidence.

³³ *United States v. Dunlap*, No. ACM 39567, 2020 CCA LEXIS 148, at *20 (A.F. Ct. Crim. App. May 4, 2020) (unpublished) (citing *United States v. Rust*, 41 M.J. 472, 478 (C.A.A.F. 1995)).

³⁴ *In re A.J.W.*, 80 M.J. 737, 744 (N-M. Ct. Crim App. 2021).

³⁵ R.C.M. 1001(b)(4).

The farther from an appellant’s actions this Court permits “direct harm” to flow, the greater the possibility that cumulative and unchecked, unsworn statements will improperly mount against appellants.

B. Congress specifically contemplated who could assume the rights of the victim.

Congress carved out special circumstances under Article 6b(c) when a person can “assume the rights of the victim.”³⁶ These people are called designees and they are permitted to speak on behalf of direct victims. Designees may be appointed when the victim is a minor, incompetent, incapacitated, or deceased.³⁷

For example, in the case of a murder victim, it makes sense that a family member or representative of the victim’s estate would present a victim impact statement in the victim’s absence. The victim cannot give a statement on behalf of themselves because they are dead.

Similarly, when the direct victim is a child, a designee can be appointed to represent them. It makes sense for the parents to submit a victim impact statement for a minor. A child may lack the ability to fully explain the impact of the offense on their lives. They may not be able to fully articulate the changes resulting from an offense like a parent would be able to convey. Additionally, a child does not support themselves financially. A parent can explain the direct financial impact from having

³⁶ Art. 6b(c), UCMJ, 10 U.S.C. § 806b(c) (2024).

³⁷ Art. 6b(c), UCMJ, 10 U.S.C. § 806b(c) (2024).

to support the child following the offense. For these reasons, Congress permitted this kind of testimony under Article 6b(c). When a victim is dead or lacks capacity due to age or mental status, the possibility of cumulative and unchecked wrongs against an appellant is less likely.

Only victims of an offense under Article 6b(b), and designees under Article 6b(c), get to provide unsworn statements. Here the parents who provided an unsworn statement were neither victims nor designees. Instead, they were other witnesses under R.C.M. 1001(b)(4) and could give a statement subject to cross-examination and the rules of evidence.

C. This case and *United States v. Miller* overstep the meaning of “direct.”

In this case, the “direct” victim is the victim named on the charge sheet. He was enlisted in the Marine Corps and completed boot camp.³⁸ He is an adult warfighter who was given the opportunity to be heard under R.C.M. 1001(c) regarding how Appellant’s offense impacted him. At the time of sentencing, the victim was alive and there was no evidence to suggest he was incompetent or lacked capacity such that he needed a designee to assume his rights as a victim. On the facts of this case, extension of the “crime victim” label beyond this victim results in cumulative and unfair sentencing information against Appellant—information that is not subject to cross-examination.

³⁸ Appellate Ex. XXXIII at 1-5.

In *United States v. Miller*, the lower court also overstepped the meaning of “direct.”³⁹ But the facts of *Miller* did not lead to cumulative and unchecked statements against the accused. In *Miller*, the appellant was convicted of certain drug-related offenses. “The circumstances of those offenses involved a joint enterprise between appellant and [the victim] to obtain, purchase, and use heroin together. Appellant bought the drug paraphernalia and provided the needle [the victim] used to inject the heroin that ultimately caused his death.”⁴⁰ The appellant was initially charged with involuntary manslaughter, which was dismissed pursuant to the plea agreement.⁴¹ Even though he did not plead guilty to any offense related to the victim’s death, the deceased’s mother was permitted to enter an impact statement regarding the emotional impact of her son’s death on her and her family.⁴²

The factor that distinguishes *Miller* from this case is someone died in *Miller*. The deceased victim was not able to provide an impact statement for the offenses. Although in *Miller* the victim’s mother offered a statement about the impact of her son’s death on herself, because her son is dead, there was no risk of cumulative piling of statements against an appellant. In contrast, the present case highlights the risk of

³⁹ *United States v. Miller*, 82 M.J. 788, 789 (N-M. Ct. Crim. App. 2022).

⁴⁰ *Id.* at 791.

⁴¹ *Id.* at 790.

⁴² *Id.*

“piling on” when the victim speaks for himself, and the victim’s parents are allowed to offer unsworn statements as well.

This Court’s decision in *United States v. Hamilton* is distinguishable because this Court found the mother of child pornography victims was a “crime victim” on account of the “resulting financial and psychological hardships suffered by the family.”⁴³ Indeed, the mother of *minor* children whose husband was the sexual abuser of her daughters, bears direct financial and psychological hardships. As the minor children were victims, the mother was the sole guardian who had to provide for her child following their trauma. Accordingly, the individualized assessment can find her to be a crime victim. By contrast, here, the named victim was not a minor and needed no direct financial support.

D. When Article 6b(b) is expanded beyond those directly harmed, it results in cumulative evidence against an accused that he cannot refute.

As a result of the military judge deeming PFC Roberts’ parents crime victims, and because their harm was more remote, they improperly made statements about the harm PFC Roberts suffered. The lower court’s opinion recognizes that “PFC R. provided his own victim impact statement through a VLC. PFC R.’s mother’s statement largely focused on the harm caused to her son.”⁴⁴ Both the mother’s and father’s unsworn statements talk about the financial impact Appellant’s crimes had

⁴³ *United States v. Hamilton*, 78 M.J. 335, 340 (C.A.A.F. 2019).

⁴⁴ *Wilson*, slip op. at 6.

on the family, which consisted of their travel expenses driving from Ohio to North Carolina to attend the court-martial.⁴⁵ This claimed financial impact is not direct. It also was not the focus of the statements and was mixed into the middle of the mother's statement.⁴⁶ As warned in *Hamilton*, "we caution military judges . . . to be mindful of information that is not attributable to the offenses for which an accused is being sentenced."⁴⁷

The court-martial had no way of knowing whether the parents would have driven to North Carolina even if their son were not a crime victim because they could not be questioned. However, had the government called them as witnesses under R.C.M. 1001(b), and they would have been subject to cross-examination. The question of the causation of this expense shows the lack of direct harm and lack of close proximity that is necessary for crime victims. Every crime has second and third order affects, however, Congress and the President only permitted for those directly harmed to be heard without cross-examination. The judge abused his discretion by admitting and considering their unsworn statements in his sentence deliberations.

Conclusion

This Court should grant review to address the scope of "direct harm" in determining who is a crime victim under Article 6b(b) and RCM 1001(c), UCMJ.

⁴⁵ Appellate Ex. XXXIII at 6.

⁴⁶ Appellate Ex. XXXIII at 7.

⁴⁷ *Hamilton*, 78 M.J. at 340 n.6.

This would protect appellants from the impossible task of defending against the unending causational effects of the crimes of which they are found guilty without the benefit of cross-examination.

Respectfully submitted.

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Appendix

A. *United States v. Wilson*, No. 202400373, slip op. (N-M. Ct. Crim. App. Feb. 12, 2026).

Certificate of Compliance with Rule 21(b)

This brief complies with the type-volume limitations of Rule 21 because it does not exceed 9,000 words, and complies with the typeface and style requirements of Rule 37. The brief contains 2,959 words. Undersigned counsel used Times New Roman, 14-point type with one-inch margins on all four sides.

Certificate of Filing and Service

I certify that the foregoing was filed electronically with this Court, and that copies were electronically delivered to Deputy Director, Appellate Government Division, and to Director, Administrative Support Division, Navy-Marine Corps Appellate Review Activity, on May 20, 2026.

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This opinion is subject to administrative correction before final disposition.

United States Navy - Marine Corps
Court of Criminal Appeals

Before
KISOR, GANNON, and FLINTOFT
Appellate Military Judges

UNITED STATES
Appellee

v.

Dominique D. WILSON
Private (E-1), U.S. Marine Corps
Appellant

No. 202400373

Decided: 12 February 2026

Appeal from the United States Navy-Marine Corps Trial Judiciary

Military Judge:
Ryan C. Lipton

Sentence adjudged 17 June 2024 by a general court-martial convened at Marine Corps Base Camp Lejune, North Carolina, consisting of a military judge sitting alone. Sentence in the Entry of Judgment: confinement for 53 months, forfeiture of all pay and allowances, and a dishonorable discharge.¹

For Appellant:
Captain Colin P. Norton, USMC

¹ Appellant was credited with 334 days of pretrial confinement credit.

For Appellee:
Lieutenant Michael G. Osborn, JAGC, USN
Commander John T. Cole, JAGC, USN

Senior Judge KISOR delivered the opinion of the Court, in which Judge GANNON and Judge FLINTOFT joined.

**This opinion does not serve as binding precedent, but
may be cited as persuasive authority under
NMCCA Rule of Appellate Procedure 30.2.**

KISOR, Senior Judge:

Appellant was convicted, pursuant to his pleas, of two specifications of abusive sexual contact in violation of Article 120, Uniform Code of Military Justice (UCMJ); one specification of indecent conduct in violation of Article 134, UCMJ; four specifications of violating a lawful general order in violation of Article 92, UCMJ; and one specification of assault consummated by a battery in violation of Article 128, UCMJ. The military judge sentenced Appellant to confinement totaling fifty-three months, forfeiture of all pay and allowances, and a dishonorable discharge.²

Appellant asserts three assignments of error (AOEs) presented as follows: (1) did the military judge erroneously accept victim impact statements from the victim's parents when he erroneously found they were crime victims under Rule for Courts-Martial (R.C.M.) 1001(C)(2)(A); (2) is the sentence Appellant received inappropriately disparate with the sentence his co-actor received in a closely related case; and (3) is Appellant's sentence inappropriately severe. We find no prejudicial error and affirm.

I. BACKGROUND

Based on allegations that arose, Naval Criminal Investigative Service (NCIS) agents investigated alleged misconduct within Infantry Training Battalion, School of Infantry, at Marine Corps Base Camp Lejeune in July of 2023. Over the course of its investigation, NCIS agents identified Appellant and Private A. as the two primary perpetrators of the misconduct to which Appellant

² Entry of Judgment.

ultimately pleaded guilty to. The misconduct included: touching a Marine's groin, publicly masturbating into a sex toy, swinging his exposed penis in front of another Marine who was sitting on a toilet, holding a Marine down by his arms and legs, waving a sex toy in another Marine's face, and using his hands to spread a Marine's buttocks and spitting on his anus, with the intent to abuse, humiliate, harass, and degrade him.

Both Appellant and Private A. were charged and subsequently pleaded guilty at general courts-martial. Appellant pleaded guilty to eight specifications of misconduct across six charges. There were six named victims on Appellant's charge sheet.³

Of the charges Appellant pleaded guilty to, Private A. was named as a co-actor in one specification of indecent conduct and one specification of violation of a general order, and he was present and participating in others. Acknowledging Private A.'s presence or assistance while Appellant committed these offenses, Appellant explained Private A.'s complicity in several of the offenses. In particular, Appellant described why he believed he was guilty to one of the charges in response to the military judge's direction, "[i]n your own words, I need you to tell me what happened."

Well, it was me and [Private A.] wrestling him, Your Honor. And – [Private A.] had him in an armbar, I believe the headlock. And with – with how every – with just how, like, the nature of everyone's actions was. And my actions and his actions, Your honor, it just kind of led me to just pulling down his skivvy shorts, and spitting into his anus, Your Honor.⁴

Ultimately, Private A. pleaded guilty to five specifications across four charges of which Appellant was named as a co-actor in two specifications. Private A. came to a plea agreement with the convening authority first and agreed to provide substantial assistance in Appellant's investigation, prosecution, and sentencing. In exchange, Private A.'s sentence was limited to a bad-conduct discharge, total forfeiture of pay and allowances, and confinement between 12 to 36 months. The military judge sentenced Private A. to 33 months confinement. The convening authority further reduced Private A.'s confinement time by six months due to his cooperation against Appellant.

During the presentencing portion of Appellant's court-martial, one of the victims of abusive sexual contact, Private First Class (PFC) R., provided a victim impact statement through Victims' Legal Counsel (VLC). VLC submitted

³ Charge Sheet.

⁴ R. at 168.

unsworn victim impact statements from PFC R., PFC R.'s mother, and PFC R.'s father. The Defense objected to PFC R.'s parents' statements, arguing that the parents do not "qualify as victims under [Rule for Courts-Martial] 1001."⁵ In response, VLC stated that PFC R.'s parents fit squarely within the definition of Rule for Courts-Martial (R.C.M.) 1001 because they suffered direct, emotional, and pecuniary harm.⁶

In particular, PFC R.'s father's victim impact statement initially discussed supporting his son's decision to join the Marine Corps and attending his son's boot camp graduation. However, the letter ultimately transitioned and focused on how Appellant's conduct had caused him "emotional terror" as a father, as well as resulted in a burdensome strain on his marriage and affected his ability to travel for work.⁷

PFC R.'s mother's victim impact statement compared her son's personality before and after Appellant's conduct. She largely discussed how the incident had impacted her son: he had "become withdrawn, unable to sleep, edgy, and anxious. . . . My boy was happy go lucky, making friends . . . but they took that away from him in July."⁸ We observe that a portion also described the impact on her and her husband:

This has hurt us financially due to the fact that we were having to go back and forth from Ohio to NC so often to make sure our son had the support he needed. He had no support other than us. Emotionally this has wrecked me. I have never felt so helpless as a parent or a person in general as I have during this entire process. The sleepless nights, the anxiety every single time the phone rings and [PFC R.'s] name comes up. I am afraid of what else might be happening with him.⁹

Relying on *United States v. Miller*,¹⁰ the military judge agreed with VLC and permitted the submission of PFC R.'s parents' victim impact statements. Once admitted, the military judge noted these statements were not evidence

⁵ R. at 279.

⁶ R. at 279.

⁷ Appellate Exhibit XXXIII at 6.

⁸ Appellate Exhibit XXXIII at 7.

⁹ Appellate Exhibit XXXIII at 7.

¹⁰ *United States v. Miller*, 82 M.J. 788, 791 (N-M. Ct. Crim. App. 2022).

and that he would give these statements the appropriate weight they deserve.¹¹

Appellant's plea agreement provided that the military judge would adjudge forfeiture of all pay and allowances and a dishonorable discharge. Additionally, the military judge had discretion to adjudge confinement between the range of 30 and 72 months.¹² The military judge ultimately sentenced Appellant to forfeiture of all pay and allowances, a dishonorable discharge, and concurrent confinement terms totaling 53 months.

II. DISCUSSION

A. The Military Judge Did Not Abuse His Discretion By Accepting Victim Impact Statements From the Victim's Parents Under R.C.M. 1001(C)(2)(A). Even Assuming Error, Appellant Was Not Materially Prejudiced.

1. Standard of Review

This Court reviews a military judge's ruling on an objection to a victim's unsworn statement for abuse of discretion.¹³ "Abuse of discretion occurs when the military judge: (1) bases a ruling on findings of fact that are not supported by the evidence; (2) uses incorrect legal principles; (3) applies correct legal principles in a clearly unreasonable way; or (4) does not consider important facts."¹⁴

When a military judge has abused his discretion in rejecting objections to a victim's unsworn statement, the Court will grant relief only if the Court is persuaded that the victim impact statement "substantially influenced the adjudged sentence."¹⁵ In determining whether improperly admitted evidence substantially influenced a sentence, this Court considers four factors: "(1) the strength of the Government's case; (2) the strength of the defense case; (3) the materiality of the evidence in question; and (4) the quality of the evidence in question."¹⁶

¹¹ R. at 283.

¹² AE XV; R. at 264.

¹³ *United States v. Campos*, 85 M.J. 310, 314 (C.A.A.F. 2025) (citing *United States v. Hamilton*, 78 M.J. 335, 340 (C.A.A.F. 2019)).

¹⁴ *Id.* (quoting *United States v. Ramirez*, 84 M.J. 173, 176 (C.A.A.F. 2024)).

¹⁵ *Id.* (quoting *Hamilton*, 78 M.J. at 342-43).

¹⁶ *Hamilton*, 78 M.J. at 343.

The meaning of “crime victim” under R.C.M. 1001(c) is a question of law that this Court reviews *de novo*.¹⁷ R.C.M. 1001(c)(2)(A) defines “crime victim” as “an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an offense of which the accused was found guilty or the individual’s lawful representative or designee appointed by the military judge under these rules.”¹⁸ Article 6b, UCMJ, similarly defines a victim as “an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of an offense under this chapter.”¹⁹ A victim has the right to be reasonably heard at sentencing hearing relating to the offense.²⁰ Any individual who meets these criteria has rights as a victim under R.C.M. 1001(c); the person need not be a named victim on the charge sheet, or a named victim’s designee under Article 6b.²¹

2. Analysis

Appellant argues that parents may only be considered crime victims under R.C.M. 1001 if they would otherwise qualify as Article 6b(c) designees.²² Appellant seeks a bright line rule preventing “limitless extension to indirect, collateral, attenuated people” giving victim impact statements. We decline to delineate the outer limits of R.C.M. 1001(c) in this case.²³

PFC R. provided his own victim impact statement through a VLC. PFC R.’s mother’s statement largely focused on the harm caused to her son, but also mentioned the effect on her. She recounted her son’s behaviors and personality traits before and after Appellant’s crimes, emphasizing the impact the misconduct had on him. PFC R.’s father’s statement had a slightly more pointed view on the turmoil he felt in response to Appellant’s actions towards his son. Spe-

¹⁷ *Campos*, 85 M.J. at 314 (citing *United States v. Edwards*, 82 M.J. 239, 243 (C.A.A.F. 2022)).

¹⁸ Rule for Courts-Martial (R.C.M.) 1001(c)(2)(A).

¹⁹ 10 U.S.C. § 806b(b).

²⁰ 10 U.S.C. § 806b(a)(4)(B).

²¹ *Miller*, 82 M.J. at 790.

²² Appellant’s Reply Brief at 3.

²³ We acknowledge that there are some logical limits to R.C.M. 1001(c). For example, not every taxpayer could be classified as a victim under Article 6b in the case of theft of government property.

cifically, he explained how Appellant’s conduct had caused an “emotional terror” on him as a father and the burdensome strain placed on and his marriage.²⁴

Separate from a crime victim’s right to be reasonably heard under R.C.M. 1001(c), the government may present evidence in aggravation, including evidence of financial, social, psychological and medical impact to any person who was a victim of a crime committed by the accused.²⁵ The facts contained statements from PFC R.’s mother and father would have been admissible in aggravation because they both discussed the psychological impact on their child as well as the financial and psychological impacts on them. The plea agreement waived objections to documents on the basis of hearsay, authenticity, or foundation.²⁶ Thus, written statements would have been admissible. Additionally, the materiality of the parents’ victim impact statements are relatively low in the context of this sentence. Appellant pleaded guilty to eight specifications of misconduct across six charges including two Article 120 offenses. Additionally, there were six named victims on the Appellant’s charge sheet.²⁷ After the military judge permitted PFC R.’s parents’ statements, he addressed that such statements were not evidence and indicated on the record he would give these statements the appropriate weight they deserved. Accordingly, we find no prejudicial error here.

B. The Sentence is Not Inappropriately Disparate With the Sentence His Co-Actor Received in a Closely Related Case.

1. Standard of Review

We review sentence appropriateness de novo.²⁸ Our power to review a case for sentence appropriateness includes (but is not limited to) considerations of uniformity and evenhandedness of sentencing decisions.²⁹ Generally speaking,

²⁴ Appellate Exhibit XXXIII at 6.

²⁵ R.C.M. 1001(b)(4).

²⁶ App. Ex. XV at para. 8(d) at 23.

²⁷ Charge Sheet.

²⁸ *United States v. Lane*, 54 M.J. 1, 2 (C.A.A.F. 2006).

²⁹ *See United States v. Sothen*, 54 M.J. 294, 296 (C.A.A.F. 2001). This is one of the equitable powers conferred upon the Service courts of criminal appeals by statute.

neither Article 66, UCMJ, nor caselaw requires us to engage in sentence comparison with specific cases.³⁰ However, this general rule is subject to one exception: we are required to engage in sentence comparison in those rare instances in which sentence appropriateness can be fairly determined only by reference to disparate sentences adjudged in closely related cases.³¹

It is in this context that the CAAF has spelled out the analytical approach we must employ when confronted with a claim that the sentences in two cases are disparate. An appellant bears the burden of demonstrating that any referenced cases are “closely related” to his or her case and that the sentences are “highly disparate.” If the appellant meets that burden (or if the Court raises the issue *sua sponte*), then the Government must show that there is a rational basis for the disparity.³²

In *United States v. Lacy*, the CAAF explained cases are “closely related” when, for example, they include “[1] co-actors involved in a common crime, [2] servicemembers involved in a common or parallel scheme, or [3] some other direct nexus between the servicemembers whose sentences are sought to be compared.”³³

2. Analysis

Appellant contends Appellant and Private A.’s cases are closely related because this case fits within all three *Lacy* categories.³⁴ For its part, the Government concedes that Private A. was involved in five of the eight offenses that Appellant pleaded guilty to, but cavils that Appellant’s and Private A.’s cases are not closely related.³⁵ We have no trouble concluding that Appellant’s and Private A.’s cases are closely related, especially as Private A.’s case was listed as a companion case on the convening authority’s Action.³⁶

³⁰ See, e.g., *United States v. Behunin*, 83 M.J. 158, 161-62 (C.A.A.F. 2023); see also *United States v. Noble*, 50 M.J. 293, 294 (C.A.A.F. 1999).

³¹ *Id.* at 162 (quoting *Sothen*, 54 M.J. at 296).

³² *United States v. Lacy*, 50 M.J. 286, 288 (C.A.A.F. 1999); see also *United States v. Swisher*, 85 M.J. 1 (C.A.A.F. 2024).

³³ *Lacy*, 50 M.J. at 288.

³⁴ Appellant’s Brief at 20-24.

³⁵ Government’s Brief at 19-21. In fact, it was Private A. who held PFC R. down while Appellant spread his buttocks and spit on his anus. R. at 168.

³⁶ convening authority’s Action at 2.

That said, although Private A. received a lighter sentence than Appellant, we do not conclude that the two sentences are highly disparate. Further, there is a rational basis for any disparity. Unsurprisingly, a co-actor, as in this case, who cooperates with the Government and strikes a deal with the convening authority *before* the other accused would ordinarily receive more favorable terms. Moreover, Appellant did not have identical charges as Private A. In fact, Appellant pleaded guilty to specifications and charges of abusive sexual contact, indecent conduct, and violation of a lawful general order. Appellant's sentence is not highly disparate from Private A.'s, but, regardless, there is a rational basis for any disparity that may exist.

C. Appellant's Sentence is Not Inappropriately Severe.

1. Standard of Review

Sentence appropriateness is reviewed *de novo*.³⁷ The review requires an "individualized consideration of the particular accused on the basis of the nature and seriousness of the offense and the character of the offender."³⁸ A court-martial may adjudge any punishment authorized, except "[i]f the military judge accepts a plea agreement with a sentence limitation, the court-martial shall sentence the accused in accordance with the limits established by the plea agreement."³⁹

2. Analysis

We are unmoved by Appellant's argument that the sentence was inappropriately severe. Nor is it plainly unreasonable. Appellant was convicted, consistent with a plea agreement, of two specifications of abusive sexual contact, one specification of indecent conduct, four specifications of violating a lawful general order, and one specification of assault consummated by a battery.⁴⁰ For those charges, he faced over 27 years in confinement.⁴¹

The convening authority and Appellant agreed to give the military judge discretion on confinement sentencing. The plea agreement provided the military judge discretion to adjudge the amount of confinement between the range

³⁷ *Lane*, 64 M.J. at 2.

³⁸ *United States v. Snelling*, 14 M.J. 267, 268 (C.M.A. 1982) (citation and internal quotation marks omitted).

³⁹ R.C.M. 1002(a)(2).

⁴⁰ Charge Sheet; R. at 273.

⁴¹ R. at 237.

of 30 and 72 months.⁴² The sentence was within this range. And, when questioned by the military judge, Appellant affirmed that he had read the plea agreement, that he had discussed with his defense counsel, and that he voluntarily agreed to the term.⁴³ All of this was to receive the benefit of his bargain. The record therefore shows Appellant's punishment was the foreseeable result of the plea agreement that he negotiated and voluntarily entered into with the convening authority.

A sentence cannot be inappropriately severe solely on the basis that an appellant hoped for a lighter sentence within the sentencing window.⁴⁴ We are also unmoved by Appellant's argument the military judge's sentence is too harsh. Due to the egregious nature of Appellant's crimes, the military judge's awarding of 53 months' confinement, forfeiture of all pay and allowances, and a dishonorable discharge was wholly appropriate.

III. CONCLUSION

After careful consideration of the record and briefs of appellate counsel, we have determined that the findings and sentence are correct in law and fact, and that no error materially prejudicial to Appellant's substantial rights occurred.⁴⁵

The findings and sentence are **AFFIRMED**.



FOR THE COURT:

Mark K. Jamison
MARK K. JAMISON
Clerk of Court

⁴² R. at 264.

⁴³ R. at 267-68.

⁴⁴ See generally *United States v. Avellaneda*, 84 MJ 656, 663 (N-M. Ct. Crim. App. 2024) (“[A]lthough not dispositive, when an accused who is represented by competent counsel bargains for a specific sentence, that is strong evidence that the sentence is not inappropriately severe and it will likely not be disturbed on appeal”).

⁴⁵ Articles 59 & 66, UCMJ.