

IN THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES

UNITED STATES,

Appellee

v.

Victor M.
FERNANDEZGONZALEZ
Hospital Corpsman (E-3)
United States Navy,

Appellant

SUPPLEMENT TO PETITION FOR
GRANT OF REVIEW

Crim. App. Dkt. No. 202400381

USCA Dkt. No. 26-0293/NA

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

THOMAS L. SIU
LT, JAGC, USN
Appellate Defense Counsel
Navy-Marine Corps Appellate
Defense Division
1254 Charles Morris St SE
Washington, DC 20374
(202) 685-7054
thomas.l.siu.mil@us.navy.mil
CAAF Bar No. 38081

Table of Contents

Table of Contents	ii
Table of Authorities	iv
Issues Presented	1
I. Were Appellant’s trial defense counsel ineffective for failing to show him statements made by his commanding officer that undermined an element of the offense and would have altered his decision to plead guilty?	1
II. Did the Military Judge abuse his discretion by accepting Appellant’s guilty plea to an Article 117a violation despite the lack of evidence of a “reasonably direct and palpable effect to a military mission or a military environment”?	1
Introduction	1
Statement of Statutory Jurisdiction.....	3
Statement of the Case	3
Statement of Facts.....	3
Reasons to Grant Review	6
I. The lower court departed from this Court’s decisions in <i>Suarez</i> and <i>Davis</i> by finding Appellant’s trial defense counsel effective, so this Court should grant review under CAAF Rule 21(b)(5)(B).....	6
II. The lower court erred when it found Appellant’s plea provident because the record did not establish Article 117a’s required military nexus. This decision raises questions of law this Court has not decided but should settle under CAAF Rule 21(b)(5)(A).....	11
Appendix	20
Certificate of Compliance	21

Certificate of Filing and Service	22
---	----

Table of Authorities

United States Supreme Court Cases

<i>Bragdon v. Abbott</i> , 524 U.S. 624 (1998)	15
<i>Hill v. Lockhart</i> , 474 U.S. 52 (1985).	7
<i>Strickland v. Washington</i> , 466 U.S. 668 (1984).	7, 9
<i>United States v. Lee</i> , 582 U.S. 357 (2017).....	2, 8

United States Court of Appeals for the Armed Forces Cases

<i>United States v. Davis</i> , 60 M.J. 469 (C.A.A.F. 2005).	7, 10
<i>United States v. Gosselin</i> , 62 M.J. 349 (C.A.A.F. 2006).....	13, 18
<i>United States v. Hiser</i> , 82 M.J. 60 (C.A.A.F. 2022).....	12, 14
<i>United States v. Inabinette</i> , 66 M.J. 320 (C.A.A.F. 2008).	12
<i>United States v. Jordan</i> , 57 M.J. 236 (C.A.A.F. 2002).....	18
<i>United States v. Suarez</i> , 86 M.J. 65 (C.A.A.F. 2025)	2, 7, 8
<i>United States v. Weeks</i> , 71 M.J. 44 (C.A.A.F. 2012).....	12, 13, 18
<i>United States v. Wilcox</i> , 66 M.J. 442 (C.A.A.F. 2008).....	12, 14, 15

Navy-Marine Corps Court of Criminal Appeals Cases

<i>United States v. Fernandezgonzalez</i> , No. 202400381, slip op. (N-M. Ct. Crim. App. July 16, 2026)	passim
--	--------

Statutes

Art. 117a(a)(4), UCMJ	1, 10, 12
-----------------------------	-----------

Other Authorities

Article 117a(a)(4), UCMJ	16
MANUAL FOR COURTS-MARTIAL, UNITED STATES pt. IV, para. 55a(c)(3).....	12, 14, 15, 16
ABA Standard 4-3.3(c)(i).	9

Issues Presented

I.

Were Appellant's trial defense counsel ineffective for failing to show him statements made by his commanding officer that undermined an element of the offense and would have altered his decision to plead guilty?

II.

Did the Military Judge abuse his discretion by accepting Appellant's guilty plea to an Article 117a violation despite the lack of evidence of a "reasonably direct and palpable effect to a military mission or a military environment"?

Introduction

Appellant pleaded guilty to a crime that requires proof his actions had a "reasonably direct and palpable connection to a military mission or military environment."¹ But the best the Military Judge and the lower court could muster was that both Appellant and the alleged victim were active-duty Sailors who worked at the same unit and missed work the following day. The plea colloquy and stipulation of fact relied on possible impacts that apparently didn't materialize, and the record didn't

¹ Art. 117a(a)(4), UCMJ, 10 U.S.C. § 917a(a)(4).

establish either that a connection existed at all or that any such connection was both direct and palpable. The Military Judge abused his discretion by accepting Appellant’s plea. Because this appeal raises questions of law that have not been, but should be, settled by this Court, this Court should grant review and reverse the decision below.

Appellant’s trial defense counsel had evidence to disprove this connection element. But they didn’t show it to him or discuss it with him. When he raised that issue below, the lower court rejected his arguments, concluding that his plea bargain was so good, he wouldn’t have gone to trial anyway.² But the Supreme Court has rejected that reasoning.³ And last year, this Court reversed the NMCCA for this same error.⁴ Because the NMCCA has decided a question of law in a way that conflicts with applicable decisions of this Court, this Court should grant review and reverse the decision below.

² See *United States v. Fernandezgonzalez*, No. 202400381, slip op. at 9 (N-M. Ct. Crim. App. July 16, 2026) (“We discern no reasonable probability that Appellant would not have pleaded guilty in the face of the evidence and the favorable terms of the plea agreement.”).

³ *United States v. Lee*, 582 U.S. 357, 364–65 (2017).

⁴ *United States v. Suarez*, 86 M.J. 65, 73 (C.A.A.F. 2025).

Statement of Statutory Jurisdiction

The Navy-Marine Corps Court of Criminal Appeals (NMCCA) reviewed this case under Article 66(b)(1)(A), UCMJ. Appellant invokes this Court's Article 67(a)(3), UCMJ, jurisdiction.

Statement of the Case

A Military Judge sitting as a special court-martial convicted Appellant, in accordance with his pleas, of one specification of Wrongful Broadcast or Distribution of Intimate Visual Images under Article 117a of the UCMJ.⁵ The Military Judge sentenced Appellant to reduction to E-1 and no further punishment.⁶

Statement of Facts

Appellant, Victor M. Fernandezgonzalez, was married to Ms. Foxtrot, the alleged victim and an active-duty Sailor. After an argument over his wife's infidelity, he sent sexually explicit photos of her to her father and sexually explicit videos of her to her mother (both civilians).⁷ Ms. Foxtrot consented to taking these photos and videos, but Appellant

⁵ R. at 59.

⁶ R. at 132.

⁷ Pros. Ex. 1; R. at 31–32.

didn't have her consent to share them with her parents.⁸

While charges were pending, Appellant's commanding officer filled out and signed a Suspect Command Case Disposition Input form.⁹ The form asked his commanding officer to describe the impact of the alleged offense on the unit. He wrote, "This service member's alleged offenses have had zero impact to our command's morale, health, safety, and welfare; and negligible impact toward good order and discipline."¹⁰ He then wrote that "This service member's alleged offenses have had zero impact on our command's ability to accomplish the mission."¹¹

Before Appellant pleaded guilty, his trial defense counsel did not show him his CO's statements, nor did they discuss them with him.¹² He stated that if his trial defense counsel had shown the form to him or discussed his CO's statements with him, he would have "deeply considered, if not held strong, to fighting the charge at a contested trial."¹³

⁸ R. at 34.

⁹ Appellant's Mot. to Attach of July 10, 2025, App. B, at 11.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 9.

¹³ *Id.* at 9.

Six months after his commanding officer's statements about the lack of impact resulting from Appellant's conduct, Appellant pleaded guilty to the sole specification of violating Article 117a, UCMJ. Appellant stipulated that his actions "were likely" to affect Ms. Foxtrot's daily life and ability to perform her military duties.¹⁴ He further stipulated that his actions "could" have an impact on his unit's military mission, that Ms. Foxtrot "would likely" come in contact with the explicit content, and that this conduct "did in fact negatively affect her daily life and her ability to perform her military duties."¹⁵

During his providence inquiry, Appellant testified that his conduct had "a reasonably direct and palpable connection" to the military "because [Appellant and Ms. Foxtrot] were both active duty" at the time and that they "both ended up missing work the next day" because of Appellant's conduct.¹⁶

The Military Judge accepted Appellant's guilty plea and sentenced him to reduction to E-1.¹⁷

¹⁴ Pros. Ex. 1.

¹⁵ *Id.*

¹⁶ R. at 39–40.

¹⁷ R. at 123.

Reasons to Grant Review

I.

The lower court departed from this Court's decisions in *Suarez* and *Davis* by finding Appellant's trial defense counsel effective, so this Court should grant review under CAAF Rule 21(b)(5)(B).

Appellant's plea was improvident because trial defense counsel did not disclose to Appellant evidence that countered an element of the offense.¹⁸ The lower court summarily concluded that knowing the government would be unable to prove (or at least would face substantial difficulties in proving) an element of the offense wasn't enough to establish a reasonable probability Appellant would have pleaded not guilty. That was error because the lower court conflated analyzing the terms of the plea agreement with analyzing the strength of the government's case. This Court recently reversed the NMCCA for committing this error in *United States v. Suarez*, and it should grant review here under CAAF Rule 21(b)(5)(B) to ensure lower courts apply

¹⁸ That element is the subject of the second issue presented.

the correct standard.¹⁹

Servicemembers have a constitutional right to effective representation.²⁰ To establish ineffective assistance of counsel, an appellant must show that his counsel's performance was deficient and that deficient performance prejudiced his defense.²¹ For a guilty plea, an appellant must prove prejudice by showing "a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial."²² Whether the result of trial would have been different than the result of the plea bargain is irrelevant to this analysis.²³

The Supreme Court has made clear that a favorable plea bargain isn't dispositive of prejudice.²⁴ But that's exactly how the lower court

¹⁹ *Suarez*, 86 M.J. at 73 (finding NMCCA erred by finding no prejudice because the appellant would not have obtained a better outcome than the negotiated deal).

²⁰ *United States v. Davis*, 60 M.J. 469, 473 (C.A.A.F. 2005).

²¹ *Strickland v. Washington*, 466 U.S. 668, 687 (1984).

²² *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

²³ *See Suarez*, 86 M.J. at 73 ("We do not ask whether, had he gone to trial, the result of that trial would have been different than the result of the plea bargain." (cleaned up)).

²⁴ *United States v. Lee*, 582 U.S. 357, 364–65 (2017) (rejecting analysis of whether the result of trial "would have been different" than the plea bargain in favor of examining "whether the defendant was prejudiced by

disposed of prejudice here. Just as it erroneously did in *Suarez*, the NMCCA “*articulated* the correct prejudice standard but then erred when it *applied* a different standard, concluding as a matter of law that there was no prejudice because Appellant would not have fared better absent trial defense counsel’s advice.”²⁵

The lower court’s prejudice analysis here relies exclusively on the favorable terms of Appellant’s plea bargain, which is precisely the kind of reasoning this Court rejected in *Suarez*. The lower court pointed to the jurisdictional maximum punishment, reasoning that while Appellant “faced up to a year in confinement and a bad-conduct discharge,” the plea agreement “precluded the military judge from adjudging either.”²⁶ Then, without analyzing the strength of the government’s evidence, it concluded summarily that “We discern no reasonable probability that Appellant would not have pleaded guilty in the face of the evidence and the favorable terms of the plea agreement.”²⁷ The lower court’s decision conflicts with an applicable decision of this Court, so this Court should

the denial of the entire judicial proceeding to which he had a right”).

²⁵ *Suarez*, 86 M.J. at 73 (emphasis in original).

²⁶ *Fernandezgonzalez*, slip op. at 8–9.

²⁷ *Id.*

grant review under CAAF Rule 21(b)(5)(B).

The presumption that counsel's conduct falls within the range of reasonable professional assistance under *Strickland v. Washington* can be rebutted by showing that specific errors were unreasonable under prevailing professional norms.²⁸ Prevailing professional norms require trial defense counsel to “share with the client evidentiary materials relevant to the matter” as part of discussing potential outcomes of the case.²⁹

But here, trial defense counsel did not share or discuss the CO's statements with Appellant.³⁰ That failure was significant. It left Appellant with a bleak view of his chances of success, despite the existence of evidence countering the military connection element the government would have been required to prove at trial. The CO's written statements were direct evidence countering this element. But Appellant's trial defense counsel did not ensure he understood its importance. This led him to plead guilty, despite a reasonable probability he would not

²⁸ *Strickland*, 466 U.S. at 690 (1984); *United States v. Davis*, 60 M.J. 469, 473 (C.A.A.F. 2005).

²⁹ ABA Standard 4-3.3(c)(i).

³⁰ Appellant's Mot. to Attach, App. B, at 9.

have done so had his decision been fully informed.

The lower court didn't engage in any analysis of prevailing professional norms or whether trial defense counsel violated those norms. The NMCCA's analysis is merely a single sentence: "We do not find deficient performance here even if Appellant did not see the form prior to trial."³¹ This is not consistent with the fact-intensive analysis this Court has long required under *United States v. Davis*.³² In *Davis*, this Court conducted a thorough inquiry of trial defense counsel's performance, whether there was a reasonable explanation for counsel's actions, and whether counsel's performance "fell measurably below the performance standards ordinarily expected of fallible lawyers."³³ But here, the lower court performed no such analysis. Instead, its perfunctory conclusion is unsupported by any meaningful analysis.

The lower court's decision cannot stand. Its conclusory analysis of prevailing professional norms departs from what this Court required in *Davis*. And its prejudice analysis pays lip service to the correct standard,

³¹ *Fernandezgonzalez*, slip op. at 8.

³² *See Davis*, 60 M.J. at 474.

³³ *Id.* at 473–74.

while applying the wrong standard. This Court has previously had to intervene to correct this error in *Suarez*, but it is apparent the lower Court didn't heed that correction. This Court should grant review because the lower court decided a question of law in a way that conflicts with *Suarez* and *Davis* under CAAF Rule 21(b)(5)(B).

II.

The lower court erred when it found Appellant's plea provident because the record did not establish Article 117a's required military nexus. This decision raises questions of law this Court has not decided but should settle under CAAF Rule 21(b)(5)(A).

This Court has had few opportunities to interpret Article 117a's requirement for a "direct and palpable connection to a military mission or military environment."³⁴ This language was present in *United States v. Hiser* in an Article 117a case and in *United States v. Wilcox* in an Article 134 case.³⁵ In *Hiser*, this Court explained one way in which the required military nexus can be present. This case presents the next

³⁴ Art. 117a(a)(4), UCMJ, 10 U.S.C. § 917a(a)(4).

³⁵ *United States v. Hiser*, 82 M.J. 60 (C.A.A.F. 2022); *United States v. Wilcox*, 66 M.J. 442 (C.A.A.F. 2008).

logical step from *Hiser*, namely, can this military connection be present even when *Hiser* is not satisfied? This is a question of law this Court has yet to settle, and it should grant review under CAAF Rule 21(b)(5)(A) to settle it.

This Court reviews a military judge’s decision to accept a guilty plea for an abuse of discretion.³⁶ To do so, it considers “whether there is something in the record of trial, with regard to the factual basis or the law, that would raise a substantial question regarding the appellant’s guilty plea.”³⁷ “It is an abuse of discretion for a military judge to accept a guilty plea without an adequate factual basis to support it.”³⁸ And a guilty plea must be set aside if the accused’s admissions don’t establish each element of the charged offense.³⁹ Deference to a military judge’s factual inquiry doesn’t relieve the judge of the obligation to elicit facts supporting each element, as mere conclusions of law or conclusory responses aren’t enough.⁴⁰

³⁶ *United States v. Inabinette*, 66 M.J. 320, 322 (C.A.A.F. 2008).

³⁷ *Id.*

³⁸ *United States v. Weeks*, 71 M.J. 44, 46 (C.A.A.F. 2012).

³⁹ *Id.*

⁴⁰ *United States v. Gosselin*, 62 M.J. 349, 352–53 (C.A.A.F. 2006) (“It is not enough to elicit legal conclusions. The military judge must elicit facts

Article 117a requires broadcast or distribution of intimate visual images to have a “reasonably direct and palpable connection to a military mission or military environment.”⁴¹ This requires conduct to “have a measurably divisive effect on unit or organization discipline, morale, or cohesion” or to “be clearly detrimental to the authority or stature of or respect toward a Servicemember.”⁴² And conduct that is connected to a military mission or environment “only in a remote or indirect sense” doesn’t satisfy Article 117a.⁴³

This Court addressed Article 117a’s military connection requirement in *United States v. Hiser*.⁴⁴ There, the appellant uploaded explicit videos of his wife to a publicly accessible pornography website.⁴⁵ He stipulated that military members could have seen this video and known the victim.⁴⁶ This Court held that the military nexus requirement may be satisfied if the images reach a servicemember, regardless of

to support the plea of guilty.” (cleaned up)).

⁴¹ Art. 117a(a)(4), UCMJ, 10 U.S.C. § 917a(a)(4).

⁴² MANUAL FOR COURTS-MARTIAL, UNITED STATES pt. IV, para. 55a(c)(3) (2024) [hereinafter MCM].

⁴³ *Id.*

⁴⁴ 82 M.J. 60 (C.A.A.F. 2022).

⁴⁵ *Id.* at 62.

⁴⁶ *Id.* at 63.

whether the images were directed to the military or how likely they were to reach it.⁴⁷

Hiser wasn't the first case to address the meaning of a "direct and palpable connection to a military mission or military environment." This Court considered that question in *United States v. Wilcox* in an Article 134 case addressing First Amendment interests.⁴⁸ There, the appellant was accused of making racist and antigovernment statements online.⁴⁹ This Court held that Article 134 required "a direct and palpable connection between speech and the military mission or military environment," and that these online statements did not reach that threshold.⁵⁰ This Court concluded that there wasn't a reasonably direct and palpable connection "between the speech and the military mission at all, let alone the military mission or military environment."⁵¹

While the interests are different in this case, this Court interpreted the same words Congress later chose to adopt in Article 117a. And where

⁴⁷ *Id.* at 66.

⁴⁸ 66 M.J. 442 (C.A.A.F. 2008).

⁴⁹ *Id.* at 444–45.

⁵⁰ *Id.* at 459.

⁵¹ *Id.* at 442.

judicial interpretations have settled the meaning of a term, “repetition of the same language in a new statute indicates, as a general matter, the intent to incorporate its administrative and judicial interpretations as well.”⁵²

Hiser and *Wilcox* show that an indirect or remote effect on the military mission or environment isn’t enough to establish Article 117a’s required military nexus.⁵³ In *Hiser*, it was enough for the intimate images to reach servicemembers (and they actually reached the victim, who was a servicemember). But here, Appellant sent the images solely to Ms. Foxtrot’s civilian parents, and no evidence in the record suggests the images ever reached Ms. Foxtrot herself. This private communication between Appellant and his wife’s civilian parents did not have a direct and palpable connection to the military environment.

Here, the lower court summarily concluded in just three sentences that Article 117a’s military nexus was satisfied. Its reasoning? Appellant

⁵² *Bragdon v. Abbott*, 524 U.S. 624, 645 (1998).

⁵³ *See also* MCM pt. IV, para. 55a(c)(3) (“The connection between the conduct and a military mission or military environment is contextually oriented and cannot be evidenced by conduct that is connected only in a remote or indirect sense.”).

and Ms. Foxtrot were both active-duty Sailors, they worked at the same unit, and they missed work the next day.⁵⁴ But that misses the point. While these facts establish status and proximity, they don't establish the direct and palpable connection to a military mission or military environment Article 117a requires. And without context, a single day of missed work doesn't establish a measurable divisive effect on the unit or a clear detriment to military authority, stature, or respect.⁵⁵ Indeed, the Military Judge's providence inquiry didn't examine the specific reasons for these absences, whether they were excused, or whether they had any impact on a military mission or environment.⁵⁶

Even if the record established a military connection, neither the Military Judge nor the NMCCA evaluated whether any connection was "direct and palpable" under Article 117a. A bare stipulation that Appellant's actions were likely to affect Ms. Foxtrot's ability to perform her duties doesn't establish a direct connection between Appellant's

⁵⁴ *Fernandezgonzalez*, slip op. at 7.

⁵⁵ MCM, pt. IV, para. 55a(c)(3).

⁵⁶ R. at 39–40. Indeed, considering the statements of Appellant's commanding officer, it would seem that there was no such impact. See Appendix B, at 11.

actions and a military mission or environment. The stipulation’s speculative language describes a mere possibility of a connection, not an actual connection that is both direct and palpable. It does not describe a “measurably divisive effect on unit or organization discipline, morale, or cohesion.”⁵⁷

A plea colloquy for an Article 117a offense must establish both that the conduct had a military connection and that this connection was “direct and palpable.”⁵⁸ But the colloquy here did neither. Instead, it was conclusory and superficial. The entire inquiry into the nexus element consisted of just four questions.⁵⁹ And the Appellant’s answers were factually thin and seem far closer to legal conclusions that can’t form a guilty plea’s factual basis.⁶⁰

Few cases help define how Article 117a’s “reasonably direct and

⁵⁷ MCM pt. IV, para. 55a(c)(3) (2024).

⁵⁸ Article 117a(a)(4), UCMJ; 10 U.S.C. § 917a(a)(4); *see also Weeks*, 71 M.J. at 46 (requiring the colloquy to establish each element of the offense).

⁵⁹ R. at 39–40.

⁶⁰ *See Gosselin*, 62 M.J. at 353; *United States v. Jordan*, 57 M.J. 236 (C.A.A.F. 2002) (setting aside conviction where providence inquiry elicited a legal conclusion rather than a factual basis as to whether appellant’s conduct was prejudicial to good order and discipline or service discrediting).

palpable connection to a military mission or military environment” requirement apply. This Court hasn’t considered this question since *Hiser*, and this question hasn’t been squarely presented in the service court cases interpreting Article 117a. And because *Hiser* does not purport to decide what the minimum factual basis must be to establish the military connection, this question is likely to reoccur. That makes this an important question that this Court should settle under CAAF Rule 21(b)(5)(A). This Court should grant review to guide lower courts on what facts a military judge must elicit to establish Article 117a’s required military nexus.

Conclusion

Appellant requests this Court grant review. This case presents important issues. This Court should clarify that an outcome-centric analysis of plea bargains isn't permissible under *Suarez*. It should reaffirm that service courts must conduct meaningful analysis of whether counsel is ineffective. And it should set out what facts are needed to satisfy Article 117a's required "direct and palpable" military connection under *Hiser* and *Wilcox*.

Respectfully submitted,

THOMAS L. SIU
LT, JAGC, USN
Appellate Defense Counsel
Navy-Marine Corps Appellate
Review Activity
1254 Charles Morris St SE
Washington, DC 20374
(202) 685-7054
thomas.l.siu.mil@us.navy.mil
CAAF Bar No. 38081

Appendix

A. *United States v. Fernandezgonzalez*, No. 202400381, slip op. (N-M. Ct. Crim. App. July 16, 2026).

B. Motion to Attach Appellant's Declaration of July 10, 2025 (with enclosures) (granted July 17, 2025).

Certificate of Compliance

1. This brief complies with the type-volume limitations of Rule 21(b) because it contains 4,010 words.
2. This brief complies with the typeface and type style requirements of Rule 37 because it has been prepared in 14-point, Century Schoolbook font.

***Electronic original certified as true by
the undersigned***

THOMAS L. SIU
LT, JAGC, USN
Appellate Defense Counsel
Navy-Marine Corps Appellate
Review Activity
1254 Charles Morris St SE
Washington, DC 20374
(202) 685-7054
thomas.l.siu.mil@us.navy.mil
CAAF Bar No. 38081

Certificate of Filing and Service

I certify that the foregoing was electronically delivered to this Court,
Director, Appellate Government Division, and to Director, Administrative Support
Division, Navy-Marine Corps Appellate Review Activity, on 7 October 2026.

***Electronic original certified as true by
the undersigned***

THOMAS L. SIU
LT, JAGC, USN
Appellate Defense Counsel
Navy-Marine Corps Appellate
Review Activity
1254 Charles Morris St SE
Washington, DC 20374
(202) 685-7054
thomas.l.siu.mil@us.navy.mil
CAAF Bar No. 38081

Appendix A

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.

Victor M. FERNANDEZ GONZALEZ
Hospital Corpsman (E-3), U.S. Navy
Appellant

No. 202400381

Decided: 16 July 2026

Appeal from the United States Navy-Marine Corps Trial Judiciary

Military Judge:
Eric A. Catto

Sentence adjudged 11 July 2024 by a special court-martial tried at Joint Base Pearl Harbor-Hickam, Hawaii, consisting of a military judge sitting alone. Sentence in the Entry of Judgment: reduction to E-1.

For Appellant:
Lieutenant Commander Benjamin E. Doskocil, JAGC, USNR

For Appellee:
Lieutenant Commander Philip J. Corrigan, 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, consistent with his plea, of one specification of wrongful broadcast of intimate images in violation of Article 117a of the Uniform Code of Military Justice (UCMJ).

Appellant raises two assignments of error (AOEs): (1) did the military judge abuse his discretion accepting Appellant's guilty plea to an Article 117a violation; and (2) were Appellant's trial defense counsel ineffective for failing to inform Appellant about his Commanding Officer's (CO) statements that Appellant's misconduct had a negligible impact on the command and its military mission.

I. BACKGROUND

Following an argument with Hospitalman (HN) M.S. (Appellant's then-wife), Appellant sent three sexually explicit videos of her to her mother and five intimate images of her to her father.¹ The videos and intimate images were made with HN M.S.'s permission, but she did not authorize their distribution to anyone, let alone her parents. Appellant was subsequently charged with violations of Articles 117a (wrongful broadcast of intimate images) and 134 (indecent conduct).²

Pursuant to the plea agreement with the Office of Special Trial Counsel, Appellant agreed to plead guilty to violating Article 117a in return for a sentence with no confinement, no punitive discharge, and no fine. The military judge had sentencing discretion with respect to reduction, forfeiture of pay, and

¹ Pros. Ex. 1 at 1.

² Charge Sheet.

other lawful punishments. Additionally, as part of the plea agreement, Appellant entered into a stipulation of fact with the Government.

Appellant stipulated that he was aware that sending these images would cause emotional distress to HN M.S. explaining,

I knew it would be upsetting and painful to send intimate and sexually explicit content of her to her parents I knew my actions were likely to negatively affect her daily life and her ability to perform her military duties. I knew my actions could have a negative impact on the military mission of [the command] and HN M.S. would not be able to focus on her duties due to the distress. I also knew that HN M.S. would likely come into contact with the sent explicit content and that it did in fact negatively affect her daily life and her ability to perform her military duties.³

During the guilty plea inquiry, the military judge discussed all definitions and elements of Article 117a. When discussing the military nexus, the following exchange ensued:

Military Judge: So did your conduct, under the circumstances, have a reasonably direct and palpable connection to a military mission or military environment?

Appellant: Yes, Your Honor.

Military Judge: So how?

Appellant: Your Honor, because we were both active duty we both ended up missing work the next day because of all of this

Military Judge: Which is affecting kind of both of your abilities to do your job, your military job?

Appellant: Yes, Your Honor, exactly.⁴

Ultimately, the military judge accepted Appellant's guilty pleas and sentenced him to be reduced to pay grade E-1.

On appeal, Appellant moved to attach a declaration and an administrative form, Suspect Command Case Disposition Input (SCCDI), in which trial counsel requested Appellant's CO to comment on Appellant's misconduct and the

³ Pros. Ex. 1 at 2.

⁴ R. at 39-40.

impact the misconduct had on either the command or the military mission. This Court granted the motion on 17 July 2025. In the SCCDI, Appellant's CO noted "the service member's alleged offenses have had zero impact to our command's morale, health, safety and welfare; and negligible impact towards good order and discipline."⁵ Further, the CO assessed that "the service member's alleged offenses have had zero impact on our command's ability to accomplish the mission."⁶ Appellant contends in his declaration that his trial defense counsel attorneys never showed him this form, and that he does not believe he would have pleaded guilty if they had.⁷

II. DISCUSSION

A. The Military Judge Did Not Abuse His Discretion When Accepting Appellant's Guilty Plea.

Appellant argues the military judge abused his discretion because "the record fails to establish any direct and palpable effect on a military mission or military environment." According to Appellant, there is, therefore, a substantial basis to question the guilty plea.⁸ The Government, for its part, contends that the military judge did not abuse his discretion in accepting Appellant's guilty plea because both the providence inquiry and the stipulation of fact objectively support Appellant's guilt.⁹

1. Applicable Law

We review a military judge's decision to accept a guilty plea for an abuse of discretion.¹⁰ An abuse of discretion occurs when there is something in the record of trial, with regard to the factual basis or the law, that would raise a substantial question regarding an appellant's guilty plea.¹¹ Under Rule for Courts-Martial (R.C.M.) 910(e), a military judge may not accept an accused's plea of guilty unless, after inquiry, he or she is satisfied that there is a factual

⁵ Suspect Command Case Disposition Input Form, Mot. to Attach (Jul. 10, 2025). This Court granted the motion on 17 July 2025.

⁶ Suspect Command Case Disposition Input Form, Mot. to Attach (Jul. 10, 2025).

⁷ Appellant's Decl. at 2 (Jul. 10, 2025).

⁸ Appellant's Brief at 12.

⁹ Government's Answer at 13.

¹⁰ *United States v. Riley*, 72 M.J. 115, 119 (C.A.A.F. 2013) (citing *United States v. Inabinette*, 66 M.J. 320, 322 (C.A.A.F. 2008)).

¹¹ *Id.*

basis for the plea. A guilty plea must be upheld unless there is a “substantial basis” in law and fact for questioning the plea.¹²

As our superior court has explained, an appellant must not conflate the review of a guilty plea with the review of guilty findings following a contested trial:

When an accused has pleaded guilty, we do not review the “evidence” for legal sufficiency for the simple reason that there is no evidence when there is no trial. Instead, when the accused pleads guilty, the military judge shall “mak[e] such inquiry of the accused as shall satisfy the military judge that there is a factual basis for the plea.” R.C.M. 910(e). This Court’s task on review, as explained above, is only to determine from any stipulated facts and the providence inquiry whether the military judge abused his or her discretion in complying with this rule. In so doing, we simply must determine whether Appellant’s guilty plea has a substantial basis in law and fact.¹³

Thus, the military judge must ensure there is a basis in law and fact to support the plea to the offense charged.¹⁴ A plea is provident so long as the appellant was convinced of, and was able to describe, all of the facts necessary to establish his or her guilt.¹⁵

2. Analysis

Appellant argues that the military judge abused his discretion because “the record fails to establish any direct and palpable effect on a military mission or military environment” and therefore, there is a substantial basis to question the plea.¹⁶ We do not find this contention convincing, and we therefore disagree.

The record clearly shows that the military judge fully explained each element and defined applicable terms of Article 117a. The military judge stated,

¹² *United States v. Phillips*, 74 M.J. 20, 21 (C.A.A.F. 2015).

¹³ *United States v. Hiser*, 82 M.J. 60, 65 (C.A.A.F. 2022).

¹⁴ *United States v. Soto*, 69 M.J. 304, 307 (C.A.A.F. 2011) (citing *Inabinette*, 66 M.J. at 321-22) (citations omitted).

¹⁵ *United States v. Murphy*, 74 M.J. 302, 308 (C.A.A.F. 2015) (cleaned up).

¹⁶ Appellant’s Brief at 12.

One, that on or about 27 June of 2023, at or near Oahu, Hawaii, on divers occasions, you knowingly and wrongfully broadcasted intimate visual images and visual images of a sexually explicit conduct involving [HN] M.S.

Two, that HN M.S. was at least 18 years of age when the visual images were created;

Three, that HN M.S. is identifiable from the visual images and from information displayed in connection with visual images;

Four, that HN M.S. did not explicitly consent to the broadcast of the visual images;

Five, that you reasonably should have known that the visual images were made under circumstances in which HN M.S. retained a reasonable expectation of privacy regarding any broadcast of the visual images;

Six, that you reasonably should have known that the broadcast of the visual images was likely to cause harm, harassment, intimidation, emotional distress, or financial loss for HN M.S. and to harm substantially HN M.S. with respect to her reputation and personal relationships; and

Seven, that your conduct, under the circumstances, had a reasonably direct and palpable connection to a military mission or military environment.¹⁷

With respect to the last element, the Manual for Courts-Martial explains that “A reasonably direct and palpable connection to a military mission or military environment” means that:

the connection between the conduct and a military mission or military environment is contextually oriented and cannot be evidenced by conduct that is connected only in a remote or indirect sense. To constitute an offense under the UCMJ, the conduct must have a measurably divisive effect on unit or organi-

¹⁷ R. at 28-29.

zation discipline, morale, or cohesion, or must be clearly detrimental to the authority or stature of or respect toward a Servicemember.¹⁸

Here, the providence inquiry established that the victim was an active duty servicemember attached to the same command as Appellant. Appellant also admitted that both he and HN M.S. missed work the next day because of his actions.¹⁹ We are satisfied that providence inquiry and the stipulation of fact established that Appellant's misconduct had a reasonably direct and palpable connection to the military environment.²⁰ We discern no basis to question the providence of his plea.

B. Trial Defense Counsel Were Not Ineffective.

In his post-trial declaration, Appellant contends that he does not believe he would have pleaded guilty if he had been shown a copy of the CO's Suspect Command Case Disposition Input form.²¹ Appellant's argument is that it was deficient performance by counsel not to show him the form, and he was prejudiced because he would not have pleaded guilty if he had seen it.

The Government, for its part, contends that Appellant does not assert that he was unaware of the contents of the form, only that he had not seen it.²² The Government further argues that, regardless if he had seen not it, in light of the overwhelming evidence, it is inconceivable that Appellant would not have pleaded guilty.²³

1. Applicable Law

We review ineffective assistance of counsel claims de novo.²⁴ Under *Strickland v. Washington*, an appellant bears the burden of demonstrating that (a) defense counsel's performance was deficient, and (b) this deficient performance was prejudicial.²⁵ In reviewing a claim of ineffective assistance of counsel, a

¹⁸ *Manual for Courts-Martial, United States* (2023 ed.) (*MCM* (2023)), pt. IV, para. 55(b)(c)(3) at IV-77.

¹⁹ R. at 39.

²⁰ Additionally, R.C.M. 910(j) waives any factual review of this issue.

²¹ Appellant's Decl. at 2 (Jul. 10, 2025).

²² Government's Answer at 18.

²³ Government's Answer at 24.

²⁴ *United States v. Suarez*, 86 M.J. 65, 73 (C.A.A.F. 2025) (citing *United States v. Metz*, 84 M.J. 421, 428-29 (C.A.A.F. 2024)).

²⁵ 466 U.S. 668 (1984).

lineal application of the *Strickland* test is not required. To the contrary, “[i]f it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice . . . that course should be followed.”²⁶

“When an appellant alleges his counsel’s deficient performance led him to accept a guilty plea rather than go to trial, we do not ask whether, had he gone to trial, the result of that trial ‘would have been different’ than the result of the plea bargain.”²⁷ Instead, the prejudice test for ineffective assistance of counsel in the guilty plea context is an objective test: whether there is a reasonable probability that, but for counsel’s errors, an appellant would have pleaded not guilty.²⁸

Further, standing alone, an appellant’s post-trial assertions that he would not have pleaded guilty but for his attorney’s deficiencies are not enough to establish prejudice. This Court must also look to contemporaneous evidence because an appellant has an incentive to assert that the result of the plea process would have been different.²⁹

2. Analysis

Appellant argues that his trial defense counsel did not inform him about the statements his CO made in the SCCDI form before he decided to plead guilty in this case.³⁰ He argues that this failure to present and discuss the statements, “which directly undermined an element of the offense, amounted to a deficiency in the performance of their duties as his defense counsel.”³¹

Regarding prejudice, Appellant admits in his Declaration, “I had multiple conversation with [my counsel] about the likelihood of success at trial and the evidence that the government would likely present against me at trial. Both of my defense counsels advised me that pleading guilty and negotiating favorable terms was my best option.”

We do not find deficient performance here even if Appellant did not see the form prior to trial. Regarding prejudice, we observe that although Appellant

²⁶ *Strickland*, 466 U.S. at 697; see also *United States v. Bradley*, 71 M.J. 13, 16 (C.A.A.F. 2012) (“It is not necessary to decide the issue of deficient performance when it is apparent that the alleged deficiency has not caused prejudice.”).

²⁷ *Suarez*, 86 M.J. at 73 (quoting *Lee v. United States*, 582 U.S. 357, 364 (2017)).

²⁸ See *United States v. Furth*, 81 M.J. 114, 117 (C.A.A.F. 2021) (quoting *Lee v. United States*, 582 U.S. at 363).

²⁹ See *Suarez*, 86 M.J. at 73 (citation omitted).

³⁰ Appellant’s Brief at 13.

³¹ Appellant’s Brief at 13-14.

faced up to a year in confinement and a bad-conduct discharge at the special court-martial, Appellant's plea agreement precluded the military judge from adjudging either confinement or a punitive discharge.³² We discern no reasonable probability that Appellant would not have pleaded guilty in the face of the evidence and the favorable terms of the plea agreement.

Defense counsel were not ineffective.

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.³³

The findings and sentence are **AFFIRMED**.



FOR THE COURT:

Mark K. Jamison
MARK K. JAMISON
Clerk of Court

³² Plea Agreement, App. Ex. V at 5.

³³ Articles 59 & 66, UCMJ.

Appendix B

**IN UNITED STATES NAVY-MARINE CORPS
COURT OF CRIMINAL APPEALS**

Before Panel No. 3

UNITED STATES

Appellee

v.

**Victor M.
FERNANDEZGONZALEZ**
Hospital Corpsman (E-3)
U.S. Navy

Appellant

NMCCA No. 202400381

**APPELLANT’S MOTION
TO ATTACH DECLARATION**

Tried at RLSO NW DET HI, on 11 July
2024, before a Special Court- Martial
convened by Commander, Navy Region
Hawaii, Lieutenant Colonel Eric A. Catto,
USMC, Military Judge, presiding

**TO THE HONORABLE, THE JUDGES OF THE UNITED STATES
NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS**

COMES NOW Appellant, by and through counsel, and moves the Court pursuant
to Rule 23.4 of this Court’s Rules of Appellate Procedure to attach the following
documents to the record of trial:

Appendix (A): Declaration of Appellant with attachment.

The attachments to the record of these materials, which are summarized below, is in compliance with *United States v. Jessie*, as they are “necessary for resolving claims of ineffective assistance of trial defense counsel and . . . other issues [that] . . . are raised by the record but are not fully resolvable by the materials in the record.”¹

Discussion

A court of criminal appeals (CCA) may supplement the record when “extra-record fact determinations may be necessary predicates to resolving appellate questions that arise during Article 66(b), UCMJ, reviews.”² These circumstances include when additional evidence is “necessary for resolving claims of ineffective assistance of trial defense counsel (“TDC”) and a wide variety of other issues when those claims and issues are raised by the record but are not fully resolvable by the materials in the record.”³ In such circumstances, the CAAF has approved the attachment and consideration of witness declarations with attachments bearing on the matter at issue.⁴

Here, good cause exists to grant this motion under Rule 23.4 and *Jessie*. Appellant’s declaration with attachments is necessary for resolving Appellant’s

¹ *United States v. Jessie*, 79 M.J. 437, 442-43 (C.A.A.F. 2020).

² *United States v. Jessie*, 79 M.J. 437, 442-43 (C.A.A.F. 2020).

³ *Id.* at 442, 444.

⁴ *United States v. King*, 83 M.J. 115, 119, 121 (C.A.A.F. 2023) (approving CCA’s attachment and consideration of a staff judge advocate’s declaration with several attachments bearing on member excusal issue).

claims of an improvident plea and ineffective assistance of counsel. These claims of error are raised by the record but not fully resolvable by the materials in the record. Specifically, Appellant asserts that (1) his plea was improvident because he was not notified of, nor shown critical statements by his Commanding Officer, made within a Suspect Command Case Disposition Input form (“SCCDI”), that stand in direct opposition to a required element of the offense to which he pleaded guilty under Article 117a, UCMJ. And (2) the Appellant received ineffective assistance of counsel (“IAC”) because his trial defense counsel never showed him the SCCDI, nor was the SCCDI discussed with him. Further, the Appellant’s trial defense counsel advised him that challenging the charge under Article 117a, UCMJ was unlikely to be successful.

His declaration addresses these issues, discusses conversations with his counsel, and attaches the SSCDI and associated statements by Appellant’s Commanding Officer, Captain Victor M. Diaz, U.S. Navy (“Captain Diaz”). Captain Diaz was the Commanding Officer of Navy Medicine, Readiness and Training Command Pearl Harbor (“NMRTC PH”). He was the Commanding Officer of both the Appellant and the alleged victim at the time the Appellant allegedly committed the offense under Article 117, UCMJ.

Within the SSCDI, Captain Diaz stated that “[t]his service member’s alleged offenses have had zero impact to our command’s morale, health, safety and

welfare; and negligible impact towards good order and discipline.” Captain Diaz further stated that “[t]his service member’s alleged offenses have had zero impact on our command’s ability to accomplish the mission.” See Appendix (A). These statements, in tandem with the Appellant’s declaration, must be considered for this Honorable Court to evaluate Appellant’s claims of an improvident plea and IAC, including whether his TDC’s performance was deficient and whether his deficiency prejudiced Appellant’s case.

A. Summary of the proposed items to be attached:

Appendix (A) contains Appellant’s declaration which explains the conversations he had with his trial defense counsel surrounding his decision to plead guilty. It discusses how the SCCDI was never discussed with him, nor was it shown to him before his decision to plead guilty. It also describes the advice his TDC gave him, which was to plead guilty based on the government’s evidence.

B. Statement as to the relevance to the case:

This declaration with attachments is relevant to this case because it evinces that the Appellant was not informed of a key piece of evidence that cuts directly against the fourth element under Article 117a, UCMJ. Under this Article, the government must prove that “(4) [said] conduct, under the circumstances, had a reasonably direct and palpable connection to a military mission or military

environment.” The statements by Captain Diaz opine that Appellant’s misconduct had “zero” or “negligible” effect on his command’s military mission and military environment. Failing to inform the Appellant of this information was ineffective on the part of his TDC which is relevant to the IAC claim. Appellant’s declaration also supports the fact that there is more than a reasonable possibility that but for the defective advice, and failure to inform Appellant of Captain Diaz’s statements. Appellant would not have pleaded guilty. Because these issues are raised but not fully resolvable by the materials in the record, the only way to resolve Appellant’s claims is to grant the attachment of the requested materials.

WHEREFORE, counsel respectfully requests this Court grant this motion to attach.

Respectfully submitted.

***Electronic original certified as true and correct
by the undersigned***

Benjamin E. Doskocil
LCDR, JAGC, USNR
Appellate Defense Counsel
Navy-Marine Corps Appellate Review Activity
1254 Charles Morris Street, SE
Building 58, Suite 100
Washington, DC 20374
Phone: (202) 685-7290
E-mail: Benjamin.e.doskocil.mil@us.navy.mil

CERTIFICATE OF FILING AND SERVICE

I certify that this document was emailed to the Court's filing address on 10 July 2025, that a copy was uploaded into the Court's case management system on 10 July 2025, *and* that a copy of the foregoing was emailed to Director and Deputy Director, Appellate Government Division, on 10 July 2025.

***Electronic original certified as true and correct
by the undersigned***

Benjamin E. Doskocil
LCDR, JAGC, USNR
Appellate Defense Counsel

Appendix A: Appellant's Declaration of 10 July 2025 with attached Suspect Command Case Disposition Input form (SCCDI).

**IN UNITED STATES
NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS**

Before Panel No. #3

UNITED STATES

Appellee

v.

Victor M. Fernandez Gonzalez

SR (E-1)

U.S. Navy

Appellant

NMCCA No. 202400381

DECLARATION OF APPELLANT

Tried at Joint Base Pearl Harbor-Hickam, Hawaii,
on 06 June 2024 and 11 July 2024, before a Special
Court-Martial convened by Navy Medicine,
Readiness and Training Command Pearl Harbor,
with Lieutenant Colonel Eric A. Catto, USMC,
presiding as military judge

**TO THE HONORABLE, THE JUDGES OF THE UNITED STATES
NAVY-MARINE CORPS COURTS OF CRIMINAL APPEALS**

Pursuant to Art. 15, U.S.C. 1141a, I declare under penalty of perjury that the foregoing information is true and correct.

Date: 10/24/2025

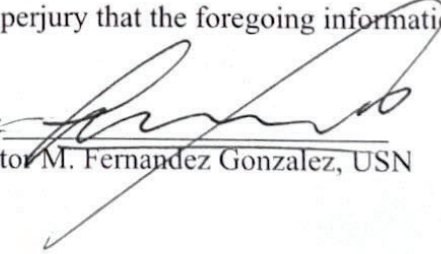
Signature: [Signature]
SR VICTOR M. FERNANDEZ GONZALEZ, USN

I, SR Victor M. Fernandez Gonzalez, do hereby swear and attest that the following is true and accurate to the best of my knowledge:

1. In May of 2024, I was charged with the offense of violating Article 117a of the Uniform Code of Military Justice ("UCMJ").
2. Lieutenant Alexander P. Bookout, JAGC, USN ("LT Bookout") and Lieutenant Benjamin J. Rogers, JAGC, USN ("LT Rogers") were detailed to serve as my defense attorneys, and soon thereafter established an attorney-client relationship with me.
3. Over the course of several weeks, I had multiple conversations with LT Bookout and LT Rogers about the likelihood of success at trial and the evidence that the government would likely present against me at trial. Both of my defense counsels advised me that pleading guilty and negotiating favorable terms was my best option. Based on this guidance, and the seemingly bleak outlook, I pleaded guilty to the alleged offense under Article 117a on July 11, 2024.
4. During the course of LT Bookout's and LT Rogers' representation of me, I was not shown a copy of the Commanding Officer's Suspect Command Case Disposition Input Form ("SCCDIF") that was signed and executed by Captain Victor M. Diaz, USN ("Captain Diaz"). Captain Diaz, the commanding officer of Navy Medicine, Readiness and Training Command Pearl Harbor, was both my commanding officer, and the victim's commanding officer at the time the government alleged I committed a violation of Article 117a. The SCCDIF is attached as Enclosure (1) to this affidavit.
5. Within the SCCDIF, Captain Diaz stated that "[t]his service member's alleged offenses have had zero impact on our command's ability to accomplish the mission." Captain Diaz also referred to the impact towards good order and discipline as "negligible."
6. If I had seen the SCCDIF, I do not believe I would have pleaded guilty to the alleged offense under Article 117a. The advice given to me by my attorney indicated little if any hope of fighting the charge successfully at trial. If the SCCDIF had been shown to me and discussed with me, I would have asked a lot more questions and deeply considered, if not held strong, to fighting the charge at a contested trial.
7. I do not believe I would have pleaded guilty to the alleged offense if I had been shown the SCCDIF, and because I was not shown this form, my plea of guilty should not be considered knowing and voluntary.

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing information is true and correct.

Date: 10 JUL 2025

Signed: 

SR Victor M. Fernandez Gonzalez, USN

ATTACHMENT:

1. Suspect Command Case Disposition Unit Form (SCCDUF) signed by Captain Diaz, USN, Commanding Officer of NMRTC Pearl Harbor.

SUSPECT COMMAND CASE DISPOSITION INPUT
FOR OFFICIAL USE ONLY, CUI WHEN FILLED IN

Blocks 1-4 to be completed by Special Trial Counsel The suspect is presumed innocent of all offenses. Nothing in this form contravenes that presumption.		
1a. Suspect (Rank, Name, Service): HN Victor FernadezGonzalez		1b. Suspect's Command: NMRTC Pearl Harbor
2a. Staff Judge Advocate (Rank, Name, Service): LT Melisa J. Wink, JAGC, USN		2b. Staff Judge Advocate Contact (Phone, Email): [REDACTED]
3a. Special Trial Counsel (Rank, Name, Service): LT Philip K. Stevens, JAGC, USN		3b. Special Trial Counsel Contact (Phone, Email): [REDACTED]
4a. Status of Case: ☐ Investigation Ongoing ☒ Investigation Substantially Complete		
4b. Brief Summary of Allegations and UCMJ Articles Considered: 26-27 June 2023, UCMJ Article 117a (Wrongful Broadcast of Intimate Images)		
4c. Special Trial Counsel Signature:  Digitally signed by STEVENS, PHILIP, KIRAN.146353698 8 Date: 2024.01.19 12:28:46 -10'00'	4d. Date to Command: 19 January 2023	4e. To Guarantee Consideration, Input Due By: 26 January 2023
Block 5 to be completed by the Suspect's Commander or Authorized Delegate to assist the Special Trial Counsel's consideration of the Secretary of Defense's Non-binding Disposition Guidance contained in Appendix 2.1 of the Manual for Courts-Martial. Opportunity is provided for input, but input is not required.		
5a. Impact of suspect's alleged offenses on the morale, health, safety, welfare, and good order and discipline of the command, if any: This service member's alleged offenses have had zero impact impact to our command's morale, health, safety and welfare; and negligible impact towards good order and discipline.		
5b. Impact of suspect's alleged offenses on the command's ability to accomplish mission, if any: This service member's alleged offenses have had zero impact on our command's ability to accomplish the mission.		
5c. Instance of suspect's prior misconduct known to the command, if any: Our command is unaware of any prior misconduct committed by this service member.		
5d. Assessment of suspect's potential for continued Naval service, if any: This service member has been diligently supporting our command's mission, ensuring medical readiness for our warfighters and quality healthcare for all our beneficiaries. Provided continued mentorship and guidance, he has unlimited potential to succeed in continued Naval service.		
5e. Additional information you request be considered in determining case disposition, if any: The alleged offenses committed by this service member stem from an immature and toxic relationship with his estranged spouse who never should have been detailed to the same command once they were separated. Absent that variable, the service member has been a solid performer.		
5f. Command Representative Rank, Name, and Title: CAPT Victor M. Diaz, Commanding Officer NMRTC PH	5g. Signature: DIAZ.VICTOR.M.10 23531271 Digitally signed by DIAZ.VICTOR.M.1023531271 Date: 2024.01.22 11:34:18 -10'00'	5h. Date: 22 JAN 2024