

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES**

UNITED STATES,

Appellee,

v.

TAYARI S. VANZANT

Staff Sergeant (E-5),
United States Air Force,
Appellant.

USCA Dkt. No. 24-0182/AF

Crim. App. Dkt. No. ACM 22004

BRIEF ON BEHALF OF APPELLANT

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

ISSUE PRESENTED

**WHETHER THE AIR FORCE COURT OF CRIMINAL
APPEALS LACKED JURISDICTION TO REVIEW
APPELLANT’S CASE.**

STATEMENT OF STATUTORY JURISDICTION

The Air Force Court of Criminal Appeals (hereinafter Air Force Court) reviewed this case pursuant to Article 66(b)(1)(A), Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 866(b)(1)(A). This Honorable Court has jurisdiction to review this case pursuant to Article 67(a)(3), UCMJ, 10 U.S.C. § 867(a)(3).

RELEVANT AUTHORITIES

Article 60c, UCMJ, 10 U.S.C. § 860c (2019 and 2023 MCM)¹:

(a) ENTRY OF JUDGMENT OF GENERAL OR SPECIAL COURT-MARTIAL. —

(1) In accordance with rules prescribed by the President in a general or special court-martial, the military judge shall enter into the record of trial the judgment of the court. . . .

Article 65(d), UCMJ, 10 U.S.C. § 865(d) (2019 and 2023 MCM):

(d) REVIEW BY JUDGE ADVOCATE GENERAL. — . . .

(2) REVIEW OF CASES NOT ELIGIBLE FOR DIRECT APPEAL.—

(A) IN GENERAL.—A review under subparagraph (B) shall be completed in each general and special court-martial that is not eligible for direct appeal under paragraph (1) or (3) of section 866(b) of this title (article 66(b)).

Article 66(b), UCMJ, 10 U.S.C. § 866(b) (2019 MCM):

(b) REVIEW. —

(1) APPEALS BY ACCUSED.—A Court of Criminal Appeals shall have jurisdiction over a timely appeal from the judgment of a court-martial, entered into the record under section 860c of this title (article 60c), as follows:

(A) On appeal by the accused in a case in which the sentence extends to confinement for more than six months and the case is not subject to automatic review under paragraph (3). . . .

(D) In a case in which the accused filed an application for review with the Court under section 869(d)(1)(B) of this title (article 69(d)(1)(B)) and the application has been granted by the Court.

¹ References to the specific statutes are cited as they appear in the version of the Manual for Courts Martial annotated within the parenthetical.

Article 66, UCMJ, 10 U.S.C. § 866 (2023 MCM):

(b) REVIEW. —

(1) APPEALS BY ACCUSED.—A Court of Criminal Appeals shall have jurisdiction over—

(A) timely appeal from the judgment of a court-martial, entered into the record under section 860c(a) of this title (article 60c(a)), that includes a finding of guilty; . . .

(c) TIMELINESS.—An appeal under subsection (b)(1) is timely if—

(1) in the case of an appeal under subparagraph (A) of such subsection, it is filed before the later of—

(A) the end of the 90-day period beginning on the date the accused is provided notice of appellate rights under section 865(c), or

(B) the date set by the Court of Criminal Appeals by rule or order;
. . .

Article 69, UCMJ, 10 U.S.C. § 869 (2019 MCM):

(a) IN GENERAL.—Upon application by the accused and subject to subsections (b), (c), and (d), the Judge Advocate General may modify or set aside, in whole or in part, the findings and sentence in a court-martial that is not reviewed under section 866 of this title (article 66).

(b) TIMING.—To qualify for consideration, an application under subsection (a) must be submitted to the Judge Advocate General not later than one year after the date of completion of review under section 864 or 865 (article 64 or 65), as the case may be. . . .

(d) COURT OF CRIMINAL APPEALS.—

(1) A Court of Criminal Appeals may review the action taken by the Judge Advocate General under subsection (c) . . .

(B) in a case submitted to the Court of Criminal Appeals by the accused in an application for review.

Article 69, UCMJ, 10 U.S.C. § 869 (2023 MCM):

(b) TIMING.—

(1) To qualify for consideration, an application under subsection (a) must be submitted to the Judge Advocate General not later than—

...

(B) for a general or special court-martial, one year after the end of the 90-day period beginning on the date the accused is provided notice of appellate rights under 865(c) of this title (article 865c)), unless the accused submitted a waiver or withdrawal of appellate review under section 861 of this title (article 61) before being provided notice of appellate rights, in which case the application must be submitted to the Judge Advocate General not later than one year after the entry of judgment under section 860c of this title (article 60c).

Article 76, UCMJ, 10 U.S.C. § 876 (2019 and 2023 MCM):

The appellate review of records of trial provided by this chapter, the proceedings, findings, and sentences of courts-martial as approved, reviewed, or affirmed as required by this chapter, and all dismissals and discharged carried into execution under sentences by courts-martial following approval, review, or affirmation as required by this chapter, are final and conclusive. . . .

James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, Public Law No. 117-263, § 544(d), 136 Stat. 2395, 2582 (Dec. 23, 2022) (FY23 NDAA):

[The amendments to Article 66 and Article 69] “shall not apply to [] (1) any matter that was submitted before the date of enactment of this Act to a Court of Criminal Appeals established under section 866 of title 10, United States Code (article 66 of the Uniform Code of Military Justice; or (2) any matter that was submitted before the date of enactment of this Act to a Judge Advocate General under [Article 69, UCMJ (2019 MCM)].”

STATEMENT OF THE CASE AND FACTS

Appellant, Staff Sergeant (SSgt) Tayari S. Vanzant, was convicted, consistent with his pleas, of wrongful use of cocaine in violation of Article 112a, UCMJ, 10 U.S.C. § 912a, and was sentenced by a panel of officer and enlisted members at Holloman Air Force Base (AFB), New Mexico, in October 2021. JA at 056-58, 061-63. The members sentenced SSgt Vanzant to reduction to the grade of E-3, restriction to Holloman AFB for 60 days, and a reprimand. JA at 056-58, 063.

The convening authority granted SSgt Vanzant's request for clemency in part, halving the adjudged restriction to 30 days. JA at 055. After the convening authority modified the sentence, the military judge entered the judgment under Article 60c(a)(1) on November 4, 2021. JA at 056.

On January 6, 2022, a judge advocate reviewed SSgt Vanzant's record pursuant to Article 65, UCMJ, 10 U.S.C. § 865. JA at 059. Congress amended the appellate process set out in Articles 66 and 69, UCMJ through the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023, (FY23 NDAA), which was signed into law on December 23, 2022. FY23 NDAA, Public Law No. 117-263, § 544(d), 136 Stat. 2395, 2582.

On June 6, 2023, the Office of the Staff Judge Advocate for Nineteenth Air Force (19 AF/JA) mailed SSgt Vanzant a "Notice of Right to Submit Direct Appeal

to the Air Force Court of Criminal Appeals.” JA at 060. This memorandum advised SSgt Vanzant of his “right to file a direct appeal of the judgment” of his special court martial with the Air Force Court. *Id.* The memo further advised SSgt Vanzant that if he chose to appeal, his “application for appeal must be received by the [Air Force Court] within 90 calendar days from the date on which [he] receive[d] this letter.” *Id.* SSgt Vanzant was further advised that if he “d[id] not file an appeal, file[d] an untimely appeal, or affirmatively withdr[e]w from appellate review,” he had “one calendar year after the conclusion of the 90-day period following receipt of this letter in which to file an application for review to The Judge Advocate General of the Air Force under Article 69, [UCMJ].” *Id.*

On August 11, 2023, SSgt Vanzant, through counsel, filed with the Air Force Court a “Notice of Direct Appeal Pursuant to Article 66(b)(1)(A), UCMJ [10 U.S.C. § 866(b)(1)(A)].” JA at 003. The case was docketed on August 29, 2023, and the Government produced a verbatim transcript, which was attached to the record of trial by the Air Force Court on November 16, 2023. *Id.*

The Air Force Court concluded SSgt Vanzant was eligible to appeal pursuant to Article 66(b)(1)(A), UCMJ (2024 *MCM*), under the expanded jurisdiction granted by the recent amendments to Article 66, UCMJ, 10 U.S.C. § 866 through the FY23 NDAA, because his judgment was not final, and his case did not fall within one of the two categories specifically excluded by the language of the NDAA. *United*

States v. Vanzant, 84 M.J. 671 (A.F. Ct. Crim. App. May 28, 2024), JA at 008. It was not “final” in the sense of having exhausted his access to the CCA. *Id.* The Air Force Court affirmed the findings and the sentence. JA at 015.

SUMMARY OF ARGUMENT

The Air Force Court had jurisdiction over SSgt Vanzant’s case because his judgment was not final at the time Congress expanded the courts of criminal appeals’ (CCAs’) jurisdiction. SSgt Vanzant’s judgment would not have been final until January 6, 2023, and even then, it would only have been final on that date if he chose not to file an appeal or untimely filed an appeal to The Judge Advocate General (TJAG) for review. *Compare* Article 65, UCMJ review date, *with* Article 69(b), UCMJ (2019 MCM).

While Congress must expressly articulate an intent to make a statute that alters a final judgment by a court apply retroactively, the predicate trigger for that rule is the judgment be final. *See Landgraf v. Usi Film Prods.*, 511 U.S. 244, 277-80 (1994). The FY23 NDAA legislation did not have an expressed effective date, thus it is considered effective as of the date of enactment, December 23, 2022. *Johnson v. United States*, 529 U.S. 694, 702 (2000) (citation omitted). On December 23, 2022, SSgt Vanzant still had an avenue to appeal available to him through an application to TJAG, and thereafter the Air Force Court of Criminal Appeals. *See* Article 69(b), (c), and (d) UCMJ (2019 MCM). Therefore, at the time the FY23

NDAA was enacted SSgt Vanzant still had 15 days to decide to file an application for review with TJAG under Article 69(b)-(c), UCMJ (2019 MCM). *See* JA at 059 (where the Article 65 review was completed on January 6, 2022). Because the Air Force Court could still review the findings and/or sentence under Article 69(d), UCMJ, SSgt Vanzant's case was not final. *See* Article 76, UCMJ (2019 MCM).

Congress, in seeking to expand the jurisdiction of the courts of criminal appeals, had authority to specifically exclude cases such as SSgt Vanzant's. However, Congress chose not to exclude cases like SSgt Vanzant's, but rather only excluded two categories of cases whose judgments were not yet final from the broadened jurisdiction under Article 66, UCMJ. 136 Stat. 2395 § 544(d). The two limited carve-outs for the changes in the FY23 NDAA were those appellants who submitted any matter to the Judge Advocate General or had submitted an appeal to the CCA. *Id.* Therefore, the changes to Article 66(b)(1)(A), UCMJ, implemented by the FY23 NDAA on December 23, 2022, apply to SSgt Vanzant's conviction and judgment entered under Article 60(c), UCMJ.

Accordingly, this Court should affirm the conclusion of the Air Force Court that it had jurisdiction over SSgt Vanzant's case.

ARGUMENT

THE AIR FORCE COURT OF CRIMINAL APPEALS HAD JURISDICTION TO REVIEW SSGT VANZANT'S CASE.

Standard of Review

“The [C]ourts of [C]riminal [A]ppeals are courts of limited jurisdiction, defined entirely by statute.” *United States v. Arness*, 74 M.J. 441, 442 (C.A.A.F. 2015) (citation omitted). Jurisdiction is a legal question reviewed de novo. *United States v. Brubaker-Escobar*, 81 M.J. 471, 474 (C.A.A.F. 2021) (per curiam). “The burden to establish jurisdiction rests with the party invoking the court’s jurisdiction.” *United States v. LaBella*, 75 M.J. 52, 53 (C.A.A.F. 2015) (citing *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994)).

Issues of statutory construction are reviewed de novo. *United States v. Wilson*, 76 M.J. 4, 6 (C.A.A.F. 2017) (citing *United States v. Atchak*, 75 M.J. 193, 195 (C.A.A.F. 2016)).

Law and Analysis

On December 23, 2022, Congress significantly expanded appellate jurisdiction for the courts of criminal appeals under Article 66(b)(1)(A) and limited review for the Judge Advocate General under Article 69. 136 Stat. 2395 § 544(d). The FY23 NDAA does not have a specified effective date, thus it took effect on the date of enactment, December 23, 2022. *See Johnson*, 529 U.S. at 702. At the date of enactment of the FY23 NDAA, December 23, 2022, SSgt Vanzant’s judgment,

while reviewed under Article 65(d), UCMJ (2019 *MCM*), was within the one-year period to apply to TJAG for review. Article 69(b), UCMJ (2019 *MCM*).

- 1. The Air Force Court had jurisdiction because SSgt Vanzant’s judgment was not final after Article 65, UCMJ review and he did not meet the limited exceptions to the applicability the changes to Article 66 and Article 69, UCMJ set forth by the FY23 NDAA.**

In determining whether to apply this expansion of direct appeals to SSgt Vanzant’s conviction, the question turns on whether Congress intended to exclude cases such as SSgt Vanzant’s—those with an entry of judgment and Article 65, UCMJ, review done prior to enactment. The plain language of the statute controls, unless it leads to an absurd result. *United States v. Schell*, 72 M.J. 339, 343 (C.A.A.F. 2013). Review of the plain language of the statute shows Congress did not specifically provide for retroactive application of these changes to Article 66 and 69 to final judgments, nor did it set a specific parameter for the applicability of these changes. *See*, 136 Stat. 2395 § 544(d). Thus, the date of enactment controls. *See Johnson*, 529 U.S. at 702, *see also Landgraf*, 511 U.S. at 277-80.

Congress’s intent to expand an appellant’s ability to reach the court of criminal appeals through direct appeal in all cases which have a finding of guilty at a general and special court-martial as of December 23, 2022, the date of enactment, is clear when the text is given its plain meaning. The inquiry into the meaning of this statute “must cease if the statutory language is unambiguous and ‘the statutory scheme is coherent and consistent.’” *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340

(1997) (quoting *United States v. Ron Pair Enterprises, Inc.*, 489 U.S. 235, 240 (1989)) (additional citation omitted). “The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole.” *Id.* at 341 (citations omitted). Congress’s silence on retroactivity and limited carve outs for the applicability of changes to Article 66 and 69, UCMJ to cases that had started further review under Article 69, UCMJ at the time of enactment, 136 Stat. 2395 § 544(d), plainly demonstrates the intent to include cases such as SSgt Vanzant’s, whose judgments were not yet final.

Additionally, the effect of the combined changes to Article 66 and Article 69, UCMJ further demonstrates Congress’s intent to include cases such as SSgt Vanzant’s in the expanded jurisdiction to Article 66, UCMJ. The congressional changes to Articles 66 and 69, UCMJ, drastically increased an appellant’s ability to reach the CCA directly by removing access restrictions based on the adjudged sentence, JA at 005, and also limited review by the Judge Advocate General in all direct appeal cases to the issue of whether there was an invalid waiver or withdrawal of the right to a direct appeal. JA at 006. These changes, taken together, demonstrate that Congress intended to maximize the CCA's’ direct review of cases and to minimize the role of the Judge Advocate General in the appellate process. In reviewing the statutory changes as a whole, this supports the conclusion that

Congress intended to include cases such as SSgt Vanzant's in the expanded jurisdiction under Article 66(b)(1)(A). *See Robinson*, 519 U.S. at 341 (the plainness of the statutory language is determined through the broader context of the statute as a whole).

Moreover, when Congress enacted the FY23 NDAA, it had the ability to limit the appellate rights of service members if it did not intend for the statute to have an immediate effect. *See United States v. Hirst*, 84 M.J. 615, 626-27 (N-M. Ct. Crim. App. Apr. 9, 2024) (referencing the Court of Military Appeals early decisions dismissing appeals in courts-martials that began before the UCMJ's effective date of May 31, 1951). "Congress did not adopt similar language [as Congress did with the enactment of the UCMJ in May 1951] in the FY23 NDAA, and instead restricted th[e] [CCA's] jurisdiction by foreclosing review of only two narrow categories of cases." *Id.* at 627.

Looking at the two categories set forth under the FY23 NDAA, only those cases that had sought further review with TJAG or the CCA under Article 69, UCMJ were precluded from availing themselves of the direct appeals now available under this new statutory construct. *See* 136 Stat. 2395, § 544(d). Since Congress did not specifically exclude cases like SSgt Vanzant's—because he had not yet appealed to TJAG or the CCA under Article 69, UCMJ—the question becomes was his appeal otherwise final. The answer is no.

To understand why SSgt Vanzant’s appeal was not final, this Court must examine what avenues of appeal were available to appellants like SSgt Vanzant prior to any changes to Article 66, UCMJ. On December 22, 2022, prior to the change to Article 66(b)(1)(A), a servicemember whose case was reviewed by an attorney pursuant to Article 65(d), UCMJ, still had a potential route for review by the Air Force Court. Article 69(b), UCMJ (2019 *MCM*), provided that the servicemember could apply for review by TJAG. Such an application would be timely if submitted within one year after completion of the Article 65(d), UCMJ, review. *Id.* After TJAG completed the Article 69(c), UCMJ, review, the servicemember could still reach the CCA. Article 69(d), UCMJ (2019 *MCM*). Under Article 76, UCMJ, appellate review of records is not final until the proceedings, findings, and sentence of courts-martial have been “approved, reviewed, or affirmed as required.” Article 76, UCMJ (2019 and 2023 *MCM*).

It is true, SSgt Vanzant’s case had been reviewed once, pursuant to Article 65(d), UCMJ. JA at 059. However, SSgt Vanzant’s ability to still reach the CCA through Article 69(d), UCMJ, existed at the time of the enactment of the FY23 NDAA. This ability to reach the CCA, in existence for SSgt Vanzant on December 23, 2022, was one such avenue of appeal within Article 76, UCMJ’s required “approv[al], review[], or affirm[ation] as required by this chapter before a case is final. *See* Article 76, UCMJ (2019 *MCM*), *see also* Article 69(b), (c), and (d) UCMJ

(2019 *MCM*). Thus, his judgment would not have been final until on or after January 6, 2023, when the time for him to seek further review would have expired. *See id.*, *see also* JA at 059 (where Article 65, UCMJ review was done on January 6, 2022).

The Government also averred to the Air Force Court that Article 57, UCMJ was controlling as to the finality of cases in terms of appellate review. JA at 026. However, this emphasis on Article 57, UCMJ misses the broader statutory context. It is true, Article 57, UCMJ (2019 *MCM*) was not changed by the FY23 NDAA. However, Article 57(c), 10 U.S.C. § 857(c) only provides guidance on when appellate review is complete, *in the context of effective dates of sentences*. *See* Article 57(a)(5) and (c)(1)(A)-(B), UCMJ (2019 *MCM*). There is no applicability of Article 57, UCMJ then, to SSgt Vanzant's case because jurisdiction over his case does not rest within finality as it is understood in the context of effective dates of sentences.

If this Court adopts the Government's view of Article 57, UCMJ, this creates the question of whether Article 57, UCMJ, could extinguish the appellate review process that was available to SSgt Vanzant under Article 69, UCMJ prior to the FY23 NDAA changes to Article 66 and Article 69, UCMJ. While Article 65, UCMJ review for SSgt Vanzant's case was complete on January 6, 2022, JA at 059, the timeframe for SSgt Vanzant to appeal to the Judge Advocate General had not passed. *See* Article 69(b), UCMJ (2019 *MCM*), 10 U.S.C. § 869(b). This timeframe is

important, because had SSgt Vanzant appealed to TJAG, the Air Force Court could have exercised its authority under Article 69(d), UCMJ (2019 *MCM*), 10 U.S.C. § 869(d) to review issues of law. *See* Article 69(d)-(e), UCMJ (2019 *MCM*), 10 U.S.C. § 869(d)-(e). Therefore, even under the 2019 framework, only once the one-year period post Article 65, UCMJ review passed would SSgt Vanzant's ability to appeal to the CCA be extinguished. Article 57, UCMJ, cannot be read to render SSgt Vanzant's appeal final because the avenues for further appellate review were still open to SSgt Vanzant under the then-existing statutory scheme. *See* Article 69(c)-(d), UCMJ (2019 *MCM*), 10 U.S.C. § 869(c)-(d).

Interpreting the plain language and meaning of the FY23 NDAA's provisions to grant expanded jurisdiction to all cases which were not final and which excluded only two categories of cases from the changes to Articles 66 and 69, UCMJ, also does not lead to an absurd result, thus the plain language controls. *Schell*, 72 M.J. 339. Moreover, this interpretation does not render another provision of the UCMJ superfluous.² One concern with the expanded jurisdiction is the impact on the unchanged Article 65, UCMJ review. JA at 017, 031-34. As before the changes to Article 66, UCMJ, reviews still occur under Article 65(d), UCMJ. Although the FY23 NDAA changed Article 66, UCMJ to expand those cases which are eligible

² "A statute should be construed so that effect is given to all its provisions, so that no part will be inoperable or superfluous, void or insignificant...." *Hibbs v. Winn*, 542 U.S. 88, 101 (2004) (citation omitted).

for direct appeal, this does not frustrate the purpose of Article 65(d) review. If a servicemember entitled to a direct appeal chooses not to exercise that right, a designated attorney will review the case pursuant to Article 65(d), UCMJ, 10 U.S.C. § 865(d). *See* Article 65(d)(2)(B)(3) (where an Article 65 review will still be done in any case in which direct appeal is waived, withdrawn, or not filed). Thus, this view of the applicability of Article 66, UCMJ, does not render other provisions of the UCMJ superfluous, void, or insignificant.

The plain meaning of the language of the statute controls as it relates to the applicability of the changes to Articles 66 and 69, UCMJ. *See* 136 Stat. 2395, § 544(d). Congress only carved out two limited exceptions to the applicability of the changes to Article 66 and 69, UCMJ. *Id.* Additionally, Congress was silent as to retroactivity, and changes to appellate review only apply to final judgments. *See also Landgraf*, 511 U.S. at 277-80. Therefore, because SSgt Vanzant's appeal was not final, and Congress could have, but did not exclude cases such as SSgt Vanzant's from the expansion of direct appeals under Article 66(b)(1)(A), the Air Force Court had jurisdiction.

2. SSgt Vanzant timely appealed the judgment under Article 66(b)(1)(A) therefore Air Force Court rightly exercised jurisdiction over SSgt Vanzant's direct appeal.

Given his judgment was not final, when Congress sought to expand jurisdiction for the CCAs, that expansion applied to SSgt Vanzant, and the Air Force Court rightly exercised their jurisdiction under Article 66(b)(1)(A), UCMJ.

As of December 23, 2022, Article 66(b)(1)(A), UCMJ (2023 *MCM*) gives the service courts of criminal appeals jurisdiction over a timely appeal for the judgment of a special court-martial entered into the record pursuant to Article 60c(a), UCMJ, that includes a finding of guilty. These direct appeals are timely, if filed within 90 days of the date an appellant is notified of his appellate rights. In this case, the military judge entered SSgt Vanzant's conviction by a special court-martial into the record on November 4, 2021. JA at 056-58. No earlier than June 6, 2023, SSgt Vanzant was given notice of his right to direct appeal. JA at 060. SSgt Vanzant filed his notice of appeal on August 11, 2023, which was within 90-days of the notice he received. JA at 003. At the time SSgt Vanzant filed his notice of direct appeal with the Air Force Court, he had neither previously submitted his case to the CCA nor to TJAG. JA at 006-07.

SSgt Vanzant timely appealed the judgment of his court-martial as set forth in the amended Article 66(b)(1)(A) and neither provision of the FY23 NDAA which limited the applicability of the changes to Article 66 and 69, UCMJ applied to him.

See 136 Stat. 2395 § 544(d). As the Air Force Court concluded, because the FY23 NDAA did not exclude SSgt Vanzant’s case that was pending further appellate review, consistent with the canon of statutory construction *expression unius est eclusion alterius*³, Congress intended to include him. JA at 008.

SSgt Vanzant asks this Honorable Court to deny the Government’s motion to dismiss the petition for grant of review for lack of jurisdiction and affirm the Air Force Court’s decision finding jurisdiction over his appeal.



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³ “[T]o express or include one thing implies the exclusion of the other.” *United States v. McPherson*, 81 M.J. 372, 386 (C.A.A.F. 2021).

CERTIFICATE OF FILING AND SERVICE

I certify that I electronically filed a copy of the foregoing with the Clerk of Court on December 9, 2024 and that a copy was also electronically served on the Government Trial and Appellate Operations Division on the same date.



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CERTIFICATE OF COMPLIANCE WITH RULES 21(b), 24(b) & 37

This brief complies with the type-volume limitation of Rules 21(b) and 24(b) of no more than 9,000 words because it contains approximately 4,961 words.

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