

CERTIFIED RECORD OF TRIAL

(and accompanying papers)

of

BRIGGS CHARLES T [REDACTED] E-7
(Last Name) (First Name) MI (DoD ID No.) (Rank)

NAVAL MEDICAL CENTER PORTSMOUTH U.S. NAVY PORTSMOUTH, VIRGINIA
(Unit/Command Name) (Branch of Service) (Location)

By

General Court-Martial (GCM) COURT-MARTIAL
(GCM, SPCM, or SCM)

Convened by

COMMANDER
(Title of Convening Authority)

NAVY REGION MID-ATLANTIC
(Unit/Command of Convening Authority)

Tried at

NORFOLK, VIRGINIA On 8 DECEMBER 2020
(Place or Places of Trial) (Date or Dates of Trial)

Companion and other cases

(Rank, Name, DOD ID No., (if applicable), or enter "None")

CONVENING ORDER



DEPARTMENT OF THE NAVY
COMMANDER
NAVY REGION MID-ATLANTIC
1510 GILBERT STREET
NORFOLK, VA 23511-2737

JUL 02 2020

GENERAL COURT-MARTIAL CONVENING ORDER 1C-20

The following members are excused from participation in the general court-martial convened by order 1-20, dated 14 January 2020, for the trial of Chief Information Systems Technician Charles T. Briggs, U.S. Navy.

Captain [REDACTED] U.S. Navy;
Captain [REDACTED] U.S. Navy;
Captain [REDACTED] U.S. Navy;
Captain [REDACTED] U.S. Navy;
Captain [REDACTED] U.S. Navy;
Captain [REDACTED] U.S. Navy;
Captain [REDACTED] U.S. Navy;
Captain [REDACTED] U.S. Navy;
Captain [REDACTED] U.S. Navy;
Captain [REDACTED] U.S. Navy;
Commander [REDACTED] U.S. Navy;
Commander [REDACTED] U.S. Navy; and
Commander [REDACTED] U.S. Navy.

The following members are hereby detailed:

Commander [REDACTED] U.S. Navy;
Lieutenant Commander [REDACTED] U.S. Navy;
Lieutenant Commander [REDACTED] U.S. Navy;
Lieutenant Commander [REDACTED] U.S. Navy;
Lieutenant [REDACTED] U.S. Navy;
Lieutenant [REDACTED] U.S. Navy;
Lieutenant [REDACTED] U.S. Navy;
Lieutenant [REDACTED] U.S. Navy;
Lieutenant [REDACTED] U.S. Navy;
Lieutenant Junior Grade [REDACTED] U.S. Navy;
Lieutenant Junior Grade [REDACTED] U.S. Navy;
Chief Warrant Officer Three [REDACTED] U.S. Navy;
Chief Warrant Officer Three [REDACTED] U.S. Navy;
Master Chief Electrician's Mate [REDACTED] U.S. Navy;
Master Chief Cryptologic Technician [REDACTED] U.S. Navy;
Master Chief Cryptologic Technician [REDACTED] U.S. Navy;
Master Chief Aviation Maintenance Administrationman [REDACTED] U.S. Navy;
Senior Chief Culinary Specialist [REDACTED] U.S. Navy;
Senior Chief Electrician's Mate [REDACTED] U.S. Navy;
Senior Chief Boatswain's Mate [REDACTED] U.S. Navy;
Senior Chief Logistics Specialist [REDACTED] U.S. Navy;

[REDACTED]

Chief Quartermaster [REDACTED] U.S. Navy;
Chief Fire Controlman [REDACTED] U.S. Navy;
Chief Gunner's Mate [REDACTED] U.S. Navy;
Chief Missile Technician [REDACTED] U.S. Navy; and
Chief Aviation Boatswain's Mate (Handler) [REDACTED], U.S. Navy.

The military judge is authorized to detail alternate members, if available, after voir dire.

[REDACTED]
C. W. ROCK
Rear Admiral, U. S. Navy
Commander, Navy Region Mid-Atlantic

CHARGE SHEET

CHARGE SHEET

I. PERSONAL DATA

1. NAME OF ACCUSED (Last First Middle Initial) Briggs, Charles, T.			2. SSN [REDACTED]	3. RANK/RATE ITC	4. PAY GRADE E-7
5. UNIT OR ORGANIZATION Naval Medical Center Portsmouth				6. CURRENT SERVICE	
				a. INITIAL DATE 20 Dec 2017	b. TERM 4 years
7. PAY PER MONTH			8. NATURE OF RESTRAINT OF ACCUSED Pretrial Confinement	9. DATE(S) IMPOSED 15 August 2019 - Present	
a. BASIC \$4,797.60	b. SEA/FOREIGN DUTY \$0	c. TOTAL \$4,797.60			

II. CHARGES AND SPECIFICATIONS

10.

CHARGE I: VIOLATION OF THE UCMJ, ARTICLE 123

Specification (Unauthorized Distribution of Classified Information Obtained From A Government Computer): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on or about 9 January 2019, knowingly access a government computer with an unauthorized purpose and obtained classified information, to wit: an email containing SECRET classified information, with reason to believe the information could be used to injure the United States or benefit a foreign nation, and intentionally transmitted such information to [REDACTED] a Russian national, a person not entitled to receive it.

CHARGE II: VIOLATION OF THE UCMJ, ARTICLE 107

Specification 1 (False Official Statement): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on or about 20 April 2018, with intent to deceive, sign an official document, to wit: an SCI pre-screening interim questionnaire, which document was false in that he wrote "No" to the question, "Did you maintain a close and continuing relationship with anyone that is not a U.S. citizen?", and was then known by the said ITC Briggs to be so false.

SEE CONTINUATION PAGE

III. PREFERRAL

11a. NAME OF ACCUSER (Last, First, Middle Initial) [REDACTED]	b. GRADE E7/LNC	c. ORGANIZATION OF ACCUSER Region Legal Service Office Mid-Atlantic
		a. DATE (YYYYMMDD) 20191126

OATH: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 26th day of November 2019, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of or has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

Courtney E. Lewis
Typed Name of Officer

Region Legal Service Office Mid-Atlantic
Organization of Officer

CDR/O-5
[REDACTED]

Trial Counsel

*Official Capacity to Administer Oaths
(See R C M 307(b) must be commissioned officer)*

12. On November 27, 2019, the accused was informed of the charges against him/her and of the name(s) of the accuser(s) known to me (See R.C.M. 308(a)). (See R.C.M. 308 if notification cannot be made.)

[Redacted]
Typed Name of Immediate Commander

Naval Medical Center Portsmouth
Organization of Immediate Commander

CAPT/O-6
Grade

[Redacted]
Signature

IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13. The sworn charges were received at 0955 hours, November 27, 2019 at Naval Medical Center Portsmouth
Designation of Command or
Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE :

[Redacted]
Typed Name of Officer

COMMANDING OFFICER ACTING
Official Capacity of Officer Signing

CAPT/O-6
Grade

[Redacted]
Signature

V. REFERRAL; SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

b. PLACE

c. DATE (YYYYMMDD)

Navy Region Mid-Atlantic

Norfolk, Virginia

23 March 2020

Referred for trial to the General court-martial convened by General Court-Martial

Convening Order 1-20, dated 14 January 2020

, subject to the following instructions: ²

None

By C. W. ROCK of Commander
Command or Order

C. W. ROCK
Typed Name of Officer

Commander
Official Capacity of Officer Signing

Rear Admiral U.S. Navy
Signature

[Redacted]
Signature

15. On 26 March, 2020, I caused to be served a copy hereof on (each of) the above named accused.

[Redacted]
Typed Name of Trial Counsel
Courtney E. Lewis

CDR LT, JAGC, USN
Grade or Rank of Trial Counsel

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.
2 - See R.C.M. 601(e) concerning instructions. If none, so state.

Specification 2 (False Official Statement): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on or about 6 September 2018, with intent to deceive, sign an official document, to wit: [REDACTED] Form 135, which document was false in that he wrote "No" to the question, "Did you meet a foreign national who requested future contact?", and was then known by the said ITC Briggs to be so false.

Specification 3 (False Official Statement): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on or about 9 November 2018, with intent to deceive, sign an official document, to wit: his NSIPS leave request for 26 November 2018 through 7 December 2018, which document was false in that he wrote he was staying in Nebraska for his leave period, and was then known by the said ITC Briggs to be so false.

CHARGE III: VIOLATION OF THE UCMJ, ARTICLE 92

Specification 1 (Violation of a General Regulation): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, between on or about 26 November 2018 and on or about 27 December 2018, fail to obey a lawful general regulation, to wit: SECNAVINST 5510.30-M, paragraph 3-7, dated June 2006, as incorporated into SECNAVINST 5510.30B, dated 6 October 2006, by wrongfully failing to properly report his foreign travel to Serbia.

Specification 2 (Violation of a General Regulation): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, between on or about May 2017 and on or about 25 January 2019, fail to obey a lawful general regulation, to wit: SECNAVINST 5510.30-M, paragraph 3-8, dated June 2006, as incorporated into SECNAVINST 5510.30B, dated 6 October 2006, by wrongfully failing to properly report his foreign connections to [REDACTED] a Russian national, and [REDACTED] an Italian National, to his security manager.

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 131b

Specification (Obstructing Justice): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, between on or about 25 January 2019 and on or about 5 February 2019, wrongfully do a certain act, to wit: inform [REDACTED] a Russian national, of the ongoing investigation into their relationship, with intent to obstruct the due administration of justice in his case, which the accused has reason to believe that there would be disciplinary or criminal proceedings pending against him.

CHARGE V: VIOLATION OF THE UCMJ, ARTICLE 134

Specification 1 (Communicating Defense Information): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on divers occasions between on or about October 2018 and on or about January 2019, having lawful access to information relating to the national defense of the United States, which information he had reason to believe could be used to the injury of the United States or to the advantage of a foreign nation, did knowingly and willfully communicate information relating to the national defense to [REDACTED] a Russian national, a person not entitled to receive the information in violation of Title 18 United States Code, Section 793(d), an offense not capital.

SEE CONTINUATION PAGE

Specification 2 (*Possessing Child Pornography*): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on or about July 2018, knowingly and wrongfully possess child pornography, to wit: a digital image of a minor engaging in sexually explicit conduct, such conduct being of a nature to bring discredit upon the armed forces.

CHARGE VI: VIOLATION OF THE UCMJ, ARTICLE 80

Specification (*Attempted Viewing of Child Pornography*): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on divers occasions, between in or about June 2018 and in or about December 2018, attempt to view child pornography.

AND NO OTHERS

TRIAL COURT MOTIONS & RESPONSES

**NAVY-MARINE CORPS TRIAL JUDICIARY
CENTRAL COURT-MARTIAL
GENERAL COURT-MARTIAL**

UNITED STATES

v.

**CHARLES T. BRIGGS
ITC/E-7 USN**

**DEFENSE MOTION TO
COMPEL THE
PRODUCTION OF EXPERT
CONSULTANT**

23 JUN 20

1. Nature of Motion. Pursuant to Rules for Courts-Martial (R.C.M.) 703, *Manual for Courts-Martial, 2016 ed.*, the defense moves the Court to compel the government to provide the resources necessary to ensure adequate expert assistance in the defense of ITC Charles T Briggs, USN. The defense specifically requests that the government to identify and appoint a qualified Russian Language interpreter with proper security clearance and confidentiality.

2. Summary of Facts

a. ITC Briggs has been charged with Violation of Article 123 UCMJ, (Unauthorized Distribution of Classified Information Obtained from a Government Computer); Violation of Article 107 UCMJ, (False Official Statements); Violation of Article 92 UCMJ (Violation of a General Regulation); Violation of Article 131b UCMJ (Obstruction of Justice); Violation of Article 134 (Communicating Defense Information) (Possessing Child Pornography); Violation of Article 80 UCMJ (Attempted Viewing of Child Pornography).

b. Through their charging scheme, the government alleges ITC Briggs shared classified information with [REDACTED] a Russian national and failing to report his contacts with her. (Enclosure 1)

c. ITC Briggs and [REDACTED] where in a romantic relationship at the time of the alleged

misconduct and through the course of the investigation, multiple federal agencies identified hundreds of text messages between ITC Briggs and ██████ which they translated to conduct the investigation and the government intends to introduce at trial. (Enclosure 1)

d. On 23 April 2020, Defense Counsel requested and Expert Russian Language interpreter. (Enclosure 2)

e. On 27 April 2020, Trial Counsel forwarded defense request to Commander, Region Mid Atlantic with their negative endorsement. Trial Counsel stated in part that Defense request for a translator is not necessary because the government is not alleging that ██████ is a foreign government agent and that ██████ status is not relevant to rebut any evidence or argument the Government will make at trial. (Enclosure 1)

f. On 30 April 2020, Commander, Navy Region Mid-Atlantic denied Defense request. (Enclosure 3)

g. On 16 June 2020, Trial Counsel confirmed that the government or any government agent has interviewed ██████ Trial Counsel also stated, “[w]e intent to argue (consistent with the facts here) that ITC Briggs was in a romantic relationship with ██████ and provided her information because he thought it would help assuage her distrust in him, nothing more.” (Enclosure 4)

3. Discussion

a. The Defense must be able to adequately explore and independently review the evidence on the case and in this case defense cannot do so that without an expert consultant. R.C.M.

703(d) – Employment of Expert Witnesses – specifically states that

[a] request denied by the convening authority may be renewed before the military judge who shall determine whether the testimony of the expert is *relevant and necessary*, and, if so, whether the Government has provided or will provide an adequate substitute. If the military judge grants a motion for employment of an expert or finds that the Government is required to provide a substitute, the proceedings shall be abated if the Government fails to comply with the ruling. (Emphasis added)

b. The law contemplates expert assistance as vital to provide a criminal defense. In *United States v. Reinecke*, 31 M.J. 507, 511 (A.F.C.M.R. 1990), the Court states that:

[a]n R.C.M. 703(d) abatement of proceedings provides a military judge with the ability to insure an accused is provided expert witnesses necessary and relevant for his defense. Without this provision, the government could arbitrarily prevent an accused from presenting a defense by refusing to provide funds to hire the expert witness necessary to assert the defense.

c. In *United States v. Anderson*, 68 M.J. 378 (C.A.A.F. 2010), the Court explains how the military judge should proceed when a request for employment of expert witnesses is raised. “Servicemembers are entitled to government-provided expert assistance if such assistance is necessary to their defense.” *Id.* at 383. The government must provide an expert when: (1) the defense shows that a reasonable probability exists that the expert would be of assistance; and (2) that denial would result in a fundamentally unfair trial. The three elements of the first prong are (1) why the expert assistance is needed, (2) what the expert assistance would accomplish, and (3) why the defense counsel is unable to gather the evidence that the requested expert would be able to develop. *Id.*; *United States v. Freeman*, 65 M.J. 451 (C.A.A.F. 2008); *United States v. Lee*, 64 M.J. 213 (C.A.A.F. 2006).

d. As explained in the defense’s request for Expert Russian Language interpreter, this expert is relevant and necessary in order for the defense to properly prepare its case. Without the assistance of an interpreter, the defense will not be able to do their own translation of the evidence the Government is intending to use at trial. Most importantly, without an expert the defense will not be able to interview and request █████ who is a key witness in this case. Without an interpreter, the defense will greatly be hindered in preparing an adequate defense and presenting its case.

e. Applying *Anderson*, the first prong is met because a reasonable probability exists that a Russian Language Interpreter would be of assistance to the defense.

(1) Why the expert assistance is needed: Expert assistance is needed because this case involves multiple communications with █████ a Russian national who possesses limited ability to communicate in English. As discussed in the defense request, █████ is a key witness in this case, and the defense has a duty to interview her and determine whether to call her as a defense witness during the case in chief on a potential sentencing hearing. Additionally, some of the discovery includes written Russian language communications. Therefore, the defense needs qualified assistance to interpret these documents. The interpreter must have an appropriate security clearance with approved access to the discovery documents provided to the defense.

(2) What the requested expert would accomplish: An interpreter will facilitate through interviews of █████ and avoid any potential misunderstandings regarding what her testimony would be if she were called to testify at trial. Additionally, interpreter will be able to conduct his own translation of the evidence and determine the level of expertise of the government's expert translator and determine whether the translation was a literal translation of the communication in which case the translator would have to determine whether the correct meaning was used given many words have different meaning depending on context or positioning on the sentence.

(3) Why the defense counsel is unable to gather the evidence that the requested expert would be able to develop: The defense does not have the ability to speak, read or translate Russian language. Translation demands a deep understanding of both grammar and culture. Translators need to know the rules of a language as well as the habits of the people who speak it. The level of expertise necessary to gain the knowledge and be properly trained to conduct translations is beyond the abilities of defense counsel to acquire without months, of even years of training.

f. The second prong is met because denial of the defense expert consultant would result in a fundamentally unfair trial.

(1) The government has had access to an interpreter for over a year. The government interpreter analyzed the evidence and conducted its own translation, which the government is relying on, and likely seek to introduce at trial. The defense has a fundamental right to have access to the same level of assistance in analyzing case evidence. The denial of this request will result in a fundamentally unfair trial because there are many challenges involving translation. Every language sits inside a defined structure with its own agreed upon rules. The complexity of this framework directly correlates to the difficulty of translation. A simple sentence in English has a subject, verb, and object – in that order. However, not every language shares that same structure. As a result, translators frequently have to add, remove, and rearrange source words to effectively communicate in the target language. Additionally, depending on the translators vocabulary and expertise, the meaning of words may vary giving in many occasions could affect the translations of expressions when translating to literal definitions.

Without a proper expert, the defense will be unable to perform their own review of the evidence and this would result in a fundamentally unfair trial.

4. Evidence

- a. Trial Counsel’s negative endorsement dtd 27 Apr 20.
- b. Defense Counsel request of a Russian Language Interpreter dtd 23 Apr 20.
- c. Commander, Navy Region Mid-Atlantic Denial Defense Expert dtd 30 Apr 20
- d. E-mail from T.C. dtd 16 Jun 20.

5. Burden of Proof

Pursuant to R.C.M 905(c), the burden of proof is on the defense as the moving party. The standard for the burden of proof on this motion shall be a preponderance of the evidence.

6. Relief Requested

a. The defense respectfully requests that the Court order the convening authority to appoint a Russian Language Translator Interpreter with proper security clearance as an expert consultant for the defense team.

b. The Defense requests that the Defense translator be viewed as a member of the Defense team, and that, therefore, all communications between the accused and the Defense translator, as well as between the defense counsel and Defense expert consultant be viewed as privileged. Further, the Defense requests that the Government not have any conversations or other interaction with the defense expert consultant concerning the substantive aspects of this case. While the Government may have equal access to the Defense expert consultant if defense counsel decides to have him testify as an expert witness in this case, the Defense requests that the Government be prohibited from inquiring into any privileged matters in conversations with the Defense expert consultant.

7. Argument: Oral argument is requested.

LIGGETT.P
ATRICIA [REDACTED]
[REDACTED] Digitally signed by
LIGGETT.PATRICIA.
Date: 2020.06.23
20:06:59 -04'00'
P. LIGGETT
LT, USCG

I hereby certify that a copy of the foregoing motion was served on the government on 23 Jun 2020.

LIGGETT.P
ATRICIA [REDACTED]
[REDACTED] Digitally signed by
LIGGETT.PATRICIA.
Date: 2020.06.23
20:08:26 -04'00'
P. LIGGETT
LT, USCG

NAVY-MARINE CORPS TRIAL JUDICIARY
CENTRAL JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL

UNITED STATES

v.

CHARLES T. BRIGGS
ITC/E-7 USN

GOVERNMENT RESPONSE TO
DEFENSE MOTION TO COMPEL
PRODUCTION OF EXPERT
CONSULTANT

17 JULY 2020

MOTION

1. (U) The Defense has moved this Honorable Court to compel the production of an expert consultant under Rules for Courts-Martial (R.C.M.) 703. The Government respectfully requests this Honorable Court to deny the Defense motion because the expert consultant the information to be sought with the expert is not relevant or necessary to the defense.

BURDEN

2. (U) As the movant, the Defense bears the burden of proof and persuasion. Rule for Courts-Martial 905(c). That burden is by a preponderance of the evidence.

FACTS

3. (U) On 23 March 2020, ITC Briggs was charged with violating Articles 123, 107, 92, 131b, 134, and 80 of the Uniform Code of Military Justice (UCMJ).

4. (U) From 2017 through 2019, the accused maintained a romantic relationship with [REDACTED], a Russian national. (Encl 1, 2, and 3).

5. (U) The accused did not report his relationship or contacts with [REDACTED] to his command. (Encl 1, 2, 4, 5, 6, 7, and 8).

6. (U) On 9 January 2019, the accused sent a picture of a classified SECRET email to [REDACTED] via [REDACTED] an unclassified commercial digital media platform. (Encl 1, 2, 8, and 9).

7. (U) At the time the accused sent the classified email to [REDACTED] he was aware that [REDACTED] is a Russian national who was not entitled to receive the classified information. (Encl 1, 2, 3 and 9).

8. (U) On 23 April 2020, Defense requested an expert consultant in Russian language for the purposes of speaking with [REDACTED] to “determine whether [REDACTED] was acting as any sort of foreign agent or was simply and totally involved in a romantic relationship with ITC Briggs,” and to translate the thousands of pages of text messages between the accused and [REDACTED] some of which are in Russian. (Encl 10).

9. (U) On 30 April 2020, the Defense request for an expert consultant was denied. (Encl 11).

10. (U) On 13 May 2020, the Government provided to Defense in discovery the translated

This page UNCLASSIFIED when classified enclosures removed

versions of the previously provided text messages. (Encl 12).

LAW

11. (U) Servicemembers are entitled to expert assistance when such assistance is necessary for an adequate defense. *United States v. Garries*, 22 M.J. 288, 290 (C.M.A. 1986). The mere possibility of assistance is not sufficient to prevail on such a request. *United States v. Bresnahan*, 62 M.J. 137, 143 (C.A.A.F. 2005). The accused has the burden to establish a reasonable probability (1) the expert would be of assistance to the accused and (2) denial of the assistance would result in a fundamentally unfair trial. *United States v. Gunkle*, 55 M.J. 26, 31-32 (C.A.A.F. 2001). In order to satisfy the first prong of this test, this Court applies the three-part analysis set forth in *United States v. Gonzalez*, 39 M.J. 459, 461 (C.M.A.1994). The defense must show (1) why the expert is necessary; (2) what the expert would accomplish for the accused; and (3) why defense counsel is unable to gather and present the evidence that the expert would be able to develop. *Id.*

ARGUMENT

A. (U) Defense Has Failed To Meet Its Burden That An Expert Consultant To Re-Translate The Text Messages Is Necessary To The Defense.

12. (U) Defense has requested an expert consultant translator to do his own translation of the text messages to “determine the level of expertise of the government’s expert translator and determine whether the translation was a literal translation of the communication in which case the translator would have to determine whether the correct meaning was used given many words have different meaning depending on context or positioning on the sentence.” The Defense has not established any reason to believe there are inadequacies in the translation provided by the Government, but rather that there is a mere possibility that the translator could have used a different word than the Defense translator would use. There is no explanation how knowing all of the different possible words that could be used during a translation is necessary to the defense. The mere possibility of assistance is not enough under *Bresnahan*, 62 M.J. at 143. Additionally, the level of expertise of the translator utilized by NCIS is not a relevant issue in this case. The charges in this case are based off the untranslated versions of the messages and having received the translations after referral of the charges has not changed the government’s case or position on the evidence. Therefore, the Defense has failed to meet their burden of proving that a translator is necessary to the defense with respect to re-translating the text messages.

B. (U) Defense Has Failed To Meet Its Burden That An Expert Consultant To Interview ██████ Is Necessary To The Defense.

13. (U) The Defense also requested a translator to interview ██████ whom they deemed to be a “key witness” in this case, but the Defense did not elaborate on what information they believe ██████ could provide that would be relevant and necessary to the defense. In their request for an interpreter, the Defense stated they needed to speak to ██████ to “determine whether ██████ was acting as any sort of foreign agent or was simply and totally involved in a romantic relationship

with ITC Briggs.” However, the Defense’s argument misses the mark—ITC Briggs is *not* charged with espionage, but rather is charged with Unauthorized Distribution of Classified Information Obtained From a Government Computer, violation of UCMJ Article 123.

14. (U) The elements of the charged offense are: (1) that, on or about 9 January 2019, at or near Offutt Air Force Base, Nebraska, the accused knowingly accessed a Government computer with an unauthorized purpose; (2) that the accused, thereby, obtained classified information, to wit: an email containing SECRET classified information; (3) that the accused had reason to believe the information could be used to the injury of the United States or to the benefit of a foreign nation; and (4) that the accused intentionally transmitted such information to █████ a Russian national, a person not entitled to receive it. Article 123 does not require the receiving entity to be a foreign government, party of military of foreign government, or a representative of a foreign government (unlike the charge of espionage, Article 103a). The charged offense merely requires that the receiving person be *any* person who is not entitled to receive the classified information.

15. (U) █████ assertions that she is not a foreign agent are simply not relevant or necessary to rebut any element of the charged offenses or any evidence or argument that will be presented by the Government. What █████ knew or understood about the classified information is not relevant to the charged offenses. What █████ may or may not have done with the email after receiving it is not relevant or necessary to the defense either because the Government has not charged the accused with espionage. The charged offense revolves around the accused’s actions, knowledge, and intent, not that of the Russian National. The Government will not advance any theory that █████ is in fact a government agent for Russia, that she gave the classified information to the Russian government, or that ITC Briggs’ intent in providing the classified information was anything other than romantic. The Government has no evidence and will not argue to the fact-finder that ITC Briggs was intending to harm the United States or assist a foreign power, as it is not an element of Article 123. The information Defense seeks provides no evidentiary value to their defense and therefore an interview of █████ is unnecessary to their preparation.

16. (U) Lastly, given the nature of █████ involvement in this case and her past denials for a visa, it is unlikely that the United States Government will grant permission for █████ entry into the United States for testimony at trial, as Defense suggests. The fact that a witness will provide nothing to rebut the Government’s case and will likely not be available for trial eliminates the need for expert assistance in this manner.

C. (U) Defense’s Proposed Interview of █████ Has The Potential To Harm The United States National Security and Should Be Prohibited Under M.R.E. 505.

17. (U) In addition to the Defense not being able to detail what information █████ could give them that is relevant and necessary to their defense, having the Defense reach out and interview this Russian national regarding the charged offenses could do further damage to the United States. Counter-Intelligence Agents did not interview █████ because of the damage that doing so could cause to United States in comparison to what information could be gained from the interview. Since Russia conducts mass warrantless surveillance of the internet and phone activities of its citizens, speaking to █████ over an unsecure phone or internet line regarding the charges,

disclosure of classified information, could alert her foreign government that she was given classified information. One reason that would heighten the possibility that Russia is intercepting [REDACTED] communications is because the accused communicated with [REDACTED] from his government computer, which has an IP address that would most certainly be flagged by the threat country. Should [REDACTED] or any member of the defense team, to include the translator, start speaking about the classified information over unsecure communications line, the resulting spillage and compromise of classified information would be indeterminate. Additionally, reaching out to [REDACTED] regarding these specific charges would only serve to further highlight to [REDACTED] and to the threat country intercepting her communications, the importance and significance of the information that was passed to her. In essence, the Defense would be re-compromising the very same information the accused now stands charged with and re-harming national security.

18. (U) Military Rule of Evidence 505(a) specifically states, “Under no circumstances may a military judge order the release of classified information to any person not authorized to receive such information.” It also states in section (i)—Disclosure by the Accused, in subparagraph (4) that the “accused may not disclose, or cause the disclosure of, any information known or believed to be classified in connection with a trial or pretrial proceeding until....” M.R.E. 505(i)(4) clearly establishes a notice requirement by the Defense, when seeking to disclose classified information, to the Government in order to afford the Government an opportunity to seek a determination from the military judge about the disclosure of such classified information—which the Government seeks now pursuant to M.R.E. 505(j).

19. (U) First, the Defense has failed to follow the appropriate protocols under M.R.E. 505(i) by simply stating that the Defense would like to speak with [REDACTED] about whether or not she further disclosed the classified information and to whom, if anyone, without filing an appropriate request and filing under M.R.E. 505(i). Second, presuming, arguendo, the Defense motion satisfies the notice requirement, the defense does not have the authority to continue having classified discussions about the information the accused provided to [REDACTED]. Simply because the accused told [REDACTED] about the classified information does not render it unclassified. Simply put, no person on the Defense team has the authority to declare any of the information unclassified or to reveal this information to another person, who clearly is not entitled to receive it. The military judge cannot compel the Government or authorize the Defense to disclose the classified information to [REDACTED]. Further, the Defense presents no plan as to (1) how they might conduct the conversation, presumably on a secure line given the nature of the information already disclosed (which is impossible with a foreign national not employed by the United States or working in an allied environment), (2) how they will ensure they are speaking to the correct individual, (3) how they will ensure that no one else is on the line, and (4) how they would ask [REDACTED] questions in a manner as to not do potential further harm to national security. Short of any such detailed plan, this Honorable Court should deny the Defense motion outright.

20. (U) Another factor that heightens the chances that the Russian government is monitoring [REDACTED] communications is because this particular hostile nation has a history of using its citizens in romance schemes to acquire classified information. Also, their citizen tend to have a deep sense of patriotism and paranoia ingrained in them that would cause them to self-report this type of sensitive information to their government. Again, the government is not alleging that [REDACTED]

has, is or will in the future work for the Russian government but these are at least real possibilities that need to be considered when deciding when and how we should or should not be reaching back out to foreign national's from this particular country.

21. (U) The risks associated with the Defense interviewing █████ substantially overshadow the less than marginally relevant information that could potentially be gleaned from interviewing her. There is no reason to believe that any information gained from interviewing █████ would exculpate the accused or reduce his penalty, particularly since the government has not alleged any aggravating evidence with regard to █████. Since there is no exculpatory or mitigating evidence to be gained from interviewing █████ there is less than a mere possibility that a expert consultant is necessary or relevant to the defense, which means the Defense has failed to meet its burden.

RELIEF REQUESTED

22. (U) The Government respectfully requests that this Honorable Court deny the Defense motion to compel an expert consultant, namely a Russian translator, in its entirety. The Government requests oral argument on this motion.

23. (U) The Government offers the following documentary evidence in support of its motion:

- Enclosure 1 - (S) BS# [33-36] – ITC Briggs written statement dtd 25Jan19 at 1333
- Enclosure 2 - (S) BS# [38-40] – ITC Briggs written statement dtd 25Jan19 at 2058
- Enclosure 3 - (U) BS# [574, Ser 14] – █████ Tactical Intelligence Report
- Enclosure 4 - (U) BS# [7] – █████ Form 135
- Enclosure 5 - (U) BS# [9-11] – SCI Pre-screening interim questionnaire
- Enclosure 6 - (S) BS# [574, Ser 59] – iPhone 7 messages
- Enclosure 7 - (S) BS# [574, Ser 59] – iPhone 5 messages
- Enclosure 8 - (S) BS# [42-44] – ITC Briggs Phone extraction with attachment
- Enclosure 9 - (S) BS# [80-86] – Classification review
- Enclosure 10 - (U) Def Req for Expert Consultant dtd 23 April 2020
- Enclosure 11 - (U) CNRMA denial of Expert Consultant Req dtd 30 Apr 2020
- Enclosure 12 - (U) Discovery Receipt for BS# 595
- Enclosure 13 - (S) FBI Whitepaper dtd 2 July 2020
- Enclosure 14 - (S) NCIS Intel Note dtd 10 July 2020

24. (U) The Government offers the following witness testimony in support of its motion:

(U) Special Agent [REDACTED] Air Force Office of Special Investigations

[REDACTED]

Susan L. Niemier
LT, JAGC, USN
Trial Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Government Response to Defense Motion to Compel an Expert Consultant was served electronically on defense counsel on 17 July 2020.

[REDACTED]

Susan L. Niemier
LT, JAGC, USN
Trial Counsel

**NAVY-MARINE CORPS TRIAL JUDICIARY
CENTRAL JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL**

UNITED STATES

v.

**CHARLES BRIGGS
ITC/E-7 USN**

**DEFENSE MOTION TO
COMPEL DISCOVERY**

9 Jul 20

1. **Nature of Motion.** Pursuant to R.C.M. 701, the Defense moves the Court to compel the Government to discover all communications between and among any personnel of Region Legal Service Office Mid-Atlantic, Naval Criminal Investigative Service, Naval Medical Center Portsmouth, Navy Personnel Command, and/or [REDACTED] pertaining to the Permanent Change of Station orders issued to and executed by ITC Charles Briggs in July 2019.

2. **Summary of Facts.**

From July 2018 to July 2019, ITC Briggs was assigned to [REDACTED] [REDACTED] in Nebraska. In late 2018, various law enforcement agencies opened an investigation into ITC Briggs. In January and February of 2019, Air Force Office of Special Investigations (AFOSI) agents interviewed ITC Briggs numerous times. The investigation then continued.

In July 2019, ITC Briggs received Permanent Change of Station (PCS) orders directing him to detach from [REDACTED] and report to Naval Medical Center Portsmouth (NMCP) in Virginia. He executed those PCS orders and reported to NMCP at the end of July. On 15 August 2019, NCIS agents interviewed ITC Briggs in Portsmouth. After that interview, NMCP placed ITC Briggs in pretrial confinement, where he remains.

On 30 March 2020, the Defense requested documents and communications related to this unusual PCS of an individual pending investigation. On 4 April 2020, the Government denied that request.

3. Discussion.

Under Rule for Courts-Martial 701, the Government must discover, upon request by the Defense, any document that is in the possession, custody, or control of military authorities that is “relevant to defense preparation.” Even under an older, narrower version of R.C.M. 701, discovery in the military justice system was understood to be broad. See, e.g., United States v. Santos, 59 M.J. 317, 321 (C.A.A.F. 2004).

Here, the documents and communications requested by the Defense are “relevant to defense preparation.” Specifically, the circumstances of ITC Briggs’s unusual PCS transfer from one command and geographic area to another, in the middle of an investigation of which he was the subject, raises substantial questions about the reasons for that transfer and how those reasons interacted with the decision to place him in pretrial confinement two weeks after his arrival in Portsmouth. These questions are only heightened by the fact that ITC Briggs was transferred to a medical command where there does not seem to have been any need for a Sailor of his rate or paygrade. This strongly suggests that these PCS orders were issued as a pretext to accomplish another goal.

This pretext is problematic enough on its face, but the problems are heightened here where ITC Briggs was transferred from the staff of a four-star Combatant Commander, which command had performed all command functions pertaining to the investigation into ITC Briggs prior to his transfer, to a command led by an O-6 Commanding Officer who then almost immediately placed ITC Briggs into pretrial confinement. This raises concerns as to what

information was communicated to that CO, what if any pressure was exerted on that CO, and how that CO reached the decision to place ITC Briggs in pretrial confinement so quickly after he had been allowed to remain at large for more than 6 months after being alerted to the investigation into him and then ordered to move halfway across the country on his own.

For all of these reasons, the requested documents and communications pertaining to the decision to issue these PCS orders to ITC Briggs are relevant to the defense's ability to prepare and to investigate whether any Government actors involved here may have violated Article 37, R.C.M. 305, or any other provision of the UCMJ or Manual for Courts-Martial.

4. **Evidence.** The Defense presents the following documentary evidence in support of its motion:

Enclosure (1) – Defense Discovery Request dtd 20 Mar 20

Enclosure (2) – Government Discovery Response dtd 4 Apr 20

Enclosure (3) – NCIS Report of Investigation, Executive Summary dtd 4 Sep 19

In addition, the Defense proffers that the other facts alleged above are true and amenable to proof by classified documents. However, as none of the classified information in those documents is relevant to this motion and to avoid the unnecessary classification of this motion, the Defense has not included them here. If the Government disputes the facts relevant to the resolution of this motion, the Defense respectfully requests leave of the Court to supplement its filing with classified documents in a close Article 39(a) session of court.

5. **Relief Requested.** The Defense moves the Court to compel the Government to discover all communications between and among any personnel of Region Legal Service Office Mid-Atlantic, Naval Criminal Investigative Service, Naval Medical Center Portsmouth, Navy

Personnel Command, and/or U.S. Strategic Command pertaining to the Permanent Change of Station orders issued to and executed by ITC Charles Briggs in July 2019.

INNS.NICHOLAS.JA Digitally signed by
MES INNS.NICHOLAS.JAMES
SHAVER [REDACTED] SHAVER [REDACTED]
[REDACTED] Date: 2020.07.09 16:13:05
[REDACTED] -04'00'

N. J. INNS
LCDR, JAGC, USN
Detailed Defense Counsel

**NAVY-MARINE CORPS TRIAL JUDICIARY
CENTRAL JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL**

UNITED STATES

v.

**CHARLES T. BRIGGS
ITC/E-7
USN**

**GOVERNMENT RESPONSE TO
DEFENSE MOTION TO COMPEL
DISCOVERY**

17 JUL 20

MOTION

1. The Government opposes the Defense motion to compel discovery as the Defense request remains vague and overly broad.

SUMMARY

2. The Defense request for “[a]ll memoranda or reports drafted by personnel on onboard [sic] Naval Medical Portsmouth, and [REDACTED] Naval Region Mid-Atlantic, and Region Legal Service Office (RLSO) Mid-Atlantic regarding the permanent change of station (PCS) of ITC Charles T. Briggs to Naval Medical Portsmouth” continues to be overly broad and vague. The Government declines to produce such information until additional clarification on why this information is relevant and material to the presentation of a defense is provided. The Government provides and encloses the statutory, standard protocol for suspending and re-detailing personnel from a joint command, rebutting any theory that the Navy or Naval Medical Center Portsmouth (NMCP) had a pretextual reason for transferring the Accused to NMCP.

FACTS

3. The Government does not contest the facts included in the Defense motion at paragraph 2, but provides the following additional facts in support of its motion:

4. On 25 and 31 January 2019, Air Force Office of Special Investigations (AFOSI) interviewed the Accused, while he was still stationed at [REDACTED]. The Accused admitted he shared classified information regarding SECRET [REDACTED] capabilities to a Russian foreign national, who was not authorized to receive classified information. In February 2019, the Accused was again interviewed by AFOSI. The Accused stated that he had remained in contact with the Russian foreign national and provided the phone he was using to communicate with her to law enforcement officials. At the time, the Accused held a TOP SECRET/SCI security clearance.

5. On 13 May 2019, ██████████ filed a Return to Service Request to Navy Personnel Command (PERS-40), in accordance with 10 U.S.C. § 164(g), requesting the Accused be released from ██████████ and returned to a Naval unit for final adjudication of the pending criminal investigation.

6. On 10 June 2019, the Accused received Permanent Change of Station (PCS) orders to detach from ██████████ and report to NMCP no later than 31 July 2019. At the time, NMCP had an available ITC billet that was unfilled.

7. On 15 August 2019, the Naval Criminal Investigative Service (NCIS) interviewed the Accused, who admitted that he was still in communication with the same Russian foreign national to whom he had previously disclosed the classified information. He also told NCIS that he had conducted some research on how to travel out of the country to meet with the Russian foreign national without needing a passport. In addition, he admitted searching for and possessing child pornography.

8. On 15 August 2019, the Accused was placed in pretrial confinement.

BURDEN

9. The burden of proof and persuasion rests on the Defense for this motion. The standard as to proof to resolve this motion is to a preponderance of the evidence. R.C.M. 905(c).

LAW

10. Rule for Courts-Martial (R.C.M.) 701(a) defines the discovery obligations the government owes to the defense in any case. The government remains under a duty to disclose such evidence throughout the duration of the court-martial, as noted in R.C.M. 701(d). The principle underlying the discovery rules is the concept of equal access to evidence mandate in Article 46, Uniform Code of Military Justice (UCMJ). Congress mandated that “trial counsel, the defense counsel, and the court-martial shall have equal opportunity to obtain witnesses and other evidence in accordance with such regulations as the President may prescribe.” Article 46, UCMJ. Military courts have long held that Article 46, UCMJ, and R.C.M. 701 “are designed to be broader than in civilian life, provide the accused, at a minimum, with the disclosure and discovery rights available in federal civilian proceedings.” *United States v. Williams*, 50 M.J. 436, 440 (C.A.A.F. 1999).

11. With respect to searching files beyond the prosecution’s own files, the government’s due diligence searches are limited to (1) the files of law enforcement activities that participated in the investigation; (2) investigative files in a related case maintained by an entity that is “closely aligned with” the prosecution; and (3) other files, as noted in the defense discovery request that involve specific information from a specific entity. *Id.* at 441 (quoting *United States v. Hankins*, 872 F.Supp. 170, 172 (D.N.J. 1995)). However, the government is not required to search under every rock or turn over every case file or “to search for the proverbial needle in a haystack.” *Williams*, 50 M.J. at 441 (quoting *United States v. Simmons*, 38 M.J. 376, 382 (C.M.A. 1983)).

Rather, the extent to which the government's discovery obligations will be fully discharged will depend upon the particulars of the case and the nature of the defense discovery request. *Id.*

ARGUMENT

Evidence the Government Previously Declined to Produce Remains Vague and Overly Broad, But the Government has Provided Additional Discovery That Negates the Defense Pretextual Arguments

12. The Defense requested all “[a]ll memoranda or reports drafted by personnel on onboard [sic] Naval Medical Portsmouth, and [REDACTED] Naval Region Mid-Atlantic, and Region Legal Service Office (RLSO) Mid-Atlantic regarding the permanent change of station (PCS) of ITC Charles T. Briggs to Naval Medical Portsmouth.” This bare request from the Defense is overly broad and vague, and provides no context as to how the Accused's PCS move is relevant to defense preparation. The Defense request still remains vague, at best, and merely speculates as to the possibility of assistance with nothing more and bears not even a hint of information supporting the pretextual arguments posed by in its motion. The Defense fails to link how the “substantial questions” raised by an unusual PCS move pertains to any defense preparation.

13. Furthermore, [REDACTED] is permitted to suspend subordinate staff members and return them to their respective Service. 10 U.S.C. § 164(g). Upon filing a Return to Service request, which in the Naval context is to Navy Personnel Command, it is the Navy detailer who determines which assignment given the short window in which the Service Member will be detailed. It is clear from the attached enclosures that the appropriate procedures were followed, the Accused was properly suspended from [REDACTED] and subsequently assigned to an available ITC billet at NMCP. The Government has fully discharged its obligations given the vagueness of the Defense's original request. At this juncture, the Government has conducted its due diligence and nothing more needs to be produced.

RELIEF REQUESTED

14. The Government respectfully requests that the Court deny the Defense motion to compel discovery because the defense has failed to show how the requested information is relevant to defense preparation. Proper procedures and protocols were followed regarding the Accused's PCS move. Any additional discovery on this matter is not warranted, and the Government requests the Court deny production of any additional because the Defense request is vague and simply a fishing expedition for information. The Government does not request oral argument on this motion, unless the Defense requests oral argument.

15. The Government offers the following evidence in support of its motion:

- a. Enclosure (1): LCDR [REDACTED], JAGC, USN, E-mail to Trial Counsel dtd 13 July 2020 (including 4 attachments)

- b. Enclosure (2): LCDR [REDACTED] JAGC, USN, E-mail to Trial Counsel dtd 15 July 2020
- c. Enclosure (3): LT [REDACTED] JAGC, USN, E-mail to Trial Counsel dtd 14 July 2020

Respectfully submitted,

[REDACTED]

J. K. SAINI
LCDR, JAGC, USN
Trial Counsel

CERTIFICATE OF SERVICE

I certify that I have served a true copy (via e-mail) of the above on Judge Hayes Larsen, CDR, JAGC, USN and Defense Counsel Nicholas Inns, LCDR, JAGC, USN, Patricia Liggett, LT, USCG, and Mr. Frank Spinner on 17 July 2020.

[REDACTED]

J. K. SAINI
LCDR, JAGC, USN
Trial Counsel

REQUESTS

THERE ARE NO REQUESTS

NOTICES

THERE ARE NO NOTICES

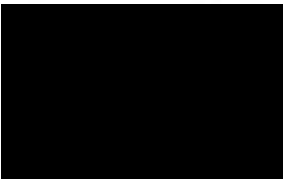
COURT RULINGS & ORDERS

**NAVY-MARINE CORPS TRIAL JUDICIARY
CENTRAL JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL**

UNITED STATES)	
)	
v.	)	ORDER GRANTING DEFENSE EXPERT CONSULTANT
)	
CHARLES T. BRIGGS	)	24 July 2020
ITC/E-7 USN)	
)	

1. On 23 April 2020, the Defense submitted to the Convening Authority, via the trial counsel, a request to have an “expert Russian language interpreter” appointed to the defense team to assist with its pretrial investigation. On 30 April 2020, the Convening Authority denied that request.
2. On 23 June 2020, the Defense filed Appellate Exhibit III, and moved this Court to grant their request for a pretrial consultant as discussed above. The Government responded to this motion on 17 July 2020 in Appellate Exhibit III(a), requesting that the Court deny the motion.
3. On 22 July 2020, an Article 39(a) hearing was conducted where both parties presented evidence and were heard on this issue.
4. The Court now **GRANTS** the Defense’s motion and orders the Government to identify and appoint a qualified Russian language interpreter with the proper security clearance to assist the Defense in its pretrial preparation and investigation.

ORDERED this 24th day of July 2020.



H. C. LARSEN
CDR, JAGC, USN
Military Judge

STATEMENT OF TRIAL RESULTS

STATEMENT OF TRIAL RESULTS

SECTION A - ADMINISTRATIVE

1. NAME OF ACCUSED (last, first, MI) BRIGGS, CHARLES T.		2. BRANCH Navy	3. PAYGRADE E-7	4. DoD ID NUMBER [REDACTED]
5. CONVENING COMMAND CDR, NAVY REGION MID-ATLANTIC		6. TYPE OF COURT-MARTIAL General	7. COMPOSITION Judge Alone - MJA16	8. DATE SENTENCE ADJUDGED Dec 8, 2020

SECTION B - FINDINGS

SEE FINDINGS PAGE

SECTION C - TOTAL ADJUDGED SENTENCE

9. DISCHARGE OR DISMISSAL Not adjudged	10. CONFINEMENT 31 Months	11. FORFEITURES N/A	12. FINES N/A	13. FINE PENALTY N/A
14. REDUCTION E-4	15. DEATH Yes <input type="radio"/> No <input checked="" type="radio"/>	16. REPRIMAND Yes <input type="radio"/> No <input checked="" type="radio"/>	17. HARD LABOR Yes <input type="radio"/> No <input checked="" type="radio"/>	18. RESTRICTION Yes <input type="radio"/> No <input checked="" type="radio"/>
19. HARD LABOR PERIOD N/A				
20. PERIOD AND LIMITS OF RESTRICTION N/A				

SECTION D - CONFINEMENT CREDIT

21. DAYS OF PRETRIAL CONFINEMENT CREDIT 480	22. DAYS OF JUDICIALLY ORDERED CREDIT 0	23. TOTAL DAYS OF CREDIT 480 days
--	--	--------------------------------------

SECTION E - PLEA AGREEMENT OR PRE-TRIAL AGREEMENT

24. LIMITATIONS ON PUNISHMENT CONTAINED IN THE PLEA AGREEMENT OR PRE-TRIAL AGREEMENT

Confinement: Charge I: Article 123 (18-42 months); Charge II, Specification 1 (2-6 months); Specification 2 (2-6 months); Specification 3 (2-6 months). All specifications to run consecutively for a total confinement range of 24-60 months.

SECTION F - SUSPENSION OR CLEMENCY RECOMMENDATION

25. DID THE MILITARY JUDGE RECOMMEND SUSPENSION OF THE SENTENCE OR CLEMENCY? Yes <input type="radio"/> No <input checked="" type="radio"/>	26. PORTION TO WHICH IT APPLIES [REDACTED]	27. RECOMMENDED DURATION [REDACTED]
28. FACTS SUPPORTING THE SUSPENSION OR CLEMENCY RECOMMENDATION [REDACTED]		

SECTION G - NOTIFICATIONS

29. Is sex offender registration required in accordance with appendix 4 to enclosure 2 of DoDI 1325.07?	Yes <input type="radio"/> No <input checked="" type="radio"/>
30. Is DNA collection and submission required in accordance with 10 U.S.C. § 1565 and DoDI 5505.14?	Yes <input checked="" type="radio"/> No <input type="radio"/>
31. Did this case involve a crime of domestic violence as defined in enclosure 2 of DoDI 6400.06?	Yes <input type="radio"/> No <input checked="" type="radio"/>
32. Does this case trigger a firearm possession prohibition in accordance with 18 U.S.C. § 922?	Yes <input checked="" type="radio"/> No <input type="radio"/>

SECTION H - NOTES AND SIGNATURE

33. NAME OF JUDGE (last, first, MI) HAYES, LARSEN C.	34. BRANCH Navy	35. PAYGRADE O-5	36. DATE SIGNED Dec 8, 2020	38. JUDGE'S SIGNATURE LARSEN.HAYES.CHRISTIAN N. [REDACTED]
37. NOTES [REDACTED]				Digitally signed by LARSEN.HAYES.CHRISTIAN Date: 2020.12.08 16:57:57 -05'00'

STATEMENT OF TRIAL RESULTS - FINDINGS

SECTION I - LIST OF FINDINGS

CHARGE	ARTICLE	SPECIFICATION	PLEA	FINDING	ORDER OR REGULATION VIOLATED	LIO OR INCHOATE OFFENSE ARTICLE	DIBRS	
Charge I	123	Specification:	<input type="text" value="Guilty"/>	<input type="text" value="Guilty"/>			<input type="text" value="123-A1"/>	
		Offense description	<input type="text" value="UNAUTHORIZED DISTRIBUTION OF CLASSIFIED INFORMATION OBTAINED FROM A GOV"/>					
Charge II	107	Specification 1:	<input type="text" value="Guilty"/>	<input type="text" value="Guilty"/>			<input type="text" value="107-B-"/>	
		Offense description	<input type="text" value="FALSE OFFICIAL STATEMENT"/>					
		Specification 2:	<input type="text" value="Guilty"/>	<input type="text" value="Guilty"/>				<input type="text" value="107-B-"/>
		Offense description	<input type="text" value="FALSE OFFICIAL STATEMENT"/>					
		Specification 3:	<input type="text" value="Guilty"/>	<input type="text" value="Guilty"/>				<input type="text" value="107-B-"/>
		Offense description	<input type="text" value="FALSE OFFICIAL STATEMENT"/>					
Charge III	92	Specification 1:	<input type="text" value="Not Guilty"/>	<input type="text" value="W/D"/>			<input type="text" value="092-A0"/>	
		Offense description	<input type="text" value="VIOLATION OF A LAWFUL GENERAL ORDER"/>					
		Withdrawn and Dismissed	<input type="text"/>					
		Specification 2:	<input type="text" value="Not Guilty"/>	<input type="text" value="W/D"/>				<input type="text" value="092-A0"/>
		Offense description	<input type="text" value="VIOLATION OF A LAWFUL GENERAL ORDER"/>					
		Withdrawn and Dismissed	<input type="text"/>					
Charge IV	131b	Specification:	<input type="text" value="Not Guilty"/>	<input type="text" value="W/D"/>			<input type="text" value="131B--"/>	
		Offense description	<input type="text" value="OBSTRUCTING JUSTICE"/>					
		Withdrawn and Dismissed	<input type="text"/>					
Charge V	134	Specification 1:	<input type="text" value="Not Guilty"/>	<input type="text" value="W/D"/>			<input type="text" value="134-Z-"/>	
		Offense description	<input type="text" value="COMMUNICATING DEFENSE INFORMATION"/>					
		Withdrawn and Dismissed	<input type="text"/>					
		Specification 2:	<input type="text" value="Not Guilty"/>	<input type="text" value="W/D"/>				<input type="text" value="134R6A"/>
		Offense description	<input type="text" value="POSSESSING CHILD PORNOGRAPHY"/>					
		Withdrawn and Dismissed	<input type="text"/>					
Charge VI	80	Specification:	<input type="text" value="Not Guilty"/>	<input type="text" value="W/D"/>			<input type="text" value="A134R6A"/>	
		Offense description	<input type="text" value="ATTEMPTED VIEWING OF CHILD PORNOGRAPHY"/>					
		Withdrawn and Dismissed	<input type="text"/>					

MILITARY JUDGE ALONE SEGMENTED SENTENCE

SECTION J - SENTENCING

CHARGE	SPECIFICATION	CONFINEMENT	CONCURRENT WITH	CONSECUTIVE WITH	FINE
Charge I	Specification:	18 months	0	II.1, II.2, II.3	
Charge II	Specification 1:	3 months	0	I.1, II.2, II.3	
	----- Specification 2:	4 months	0	I.1, II.1, II.3	
	----- Specification 3:	6 months	0	I.1, II.1, II.2	
Charge III	Specification 1:				
	----- Specification 2:				
Charge IV	Specification:				
Charge V	Specification 1:				
	----- Specification 2:				
Charge VI	Specification:				

CONVENING AUTHORITY'S ACTIONS

POST-TRIAL ACTION

SECTION A - STAFF JUDGE ADVOCATE REVIEW

1. NAME OF ACCUSED (LAST, FIRST, MI) Briggs, Charles T.		2. PAYGRADE/RANK E7	3. DoD ID NUMBER [REDACTED]
4. UNIT OR ORGANIZATION Naval Medical Center Portsmouth		5. CURRENT ENLISTMENT 20 Dec 2017	6. TERM 4 Years
7. CONVENING AUTHORITY (UNIT/ORGANIZATION) Navy Region Mid-Atlantic	8. COURT-MARTIAL TYPE General	9. COMPOSITION Judge Alone - MJA16	10. DATE SENTENCE ADJUDGED 8 Dec 2020

Post-Trial Matters to Consider

11. Has the accused made a request for deferment of reduction in grade?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
12. Has the accused made a request for deferment of confinement?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
13. Has the accused made a request for deferment of adjudged forfeitures?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
14. Has the accused made a request for deferment of automatic forfeitures?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
15. Has the accused made a request for waiver of automatic forfeitures?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
16. Has the accused submitted necessary information for transferring forfeitures for benefit of dependents?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
17. Has the accused submitted matters for convening authority's review?	<input checked="" type="radio"/> Yes	<input type="radio"/> No
18. Has the victim(s) submitted matters for convening authority's review?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
19. Has the accused submitted any rebuttal matters?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
20. Has the military judge made a suspension or clemency recommendation?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
21. Has the trial counsel made a recommendation to suspend any part of the sentence?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
22. Did the court-martial sentence the accused to a reprimand issued by the convening authority?	<input type="radio"/> Yes	<input checked="" type="radio"/> No

23. Summary of Clemency/Deferment Requested by Accused and/or Crime Victim, if applicable.

- On 18 December 2020, defense counsel submitted a clemency request that the Convening Authority approve a reduction to the pay grade of E-5 instead of the awarded reduction to the pay grade of E-4.
 - There were no victims in this case.

24. Convening Authority Name/Title RADM C. W. ROCK, Commander, Navy Region Mid-Atlantic	25. SJA Name [REDACTED]
26. SJA signature [REDACTED]	27. Date Jan 20, 2021


SECTION B - CONVENING AUTHORITY ACTION

28. Having reviewed all matters submitted by the accused and the victim(s) pursuant to R.C.M. 1106/1106A, and after being advised by the staff judge advocate or legal officer, I take the following action in this case: [If deferring or waiving any punishment, indicate the date the deferment/waiver will end. Attach signed reprimand if applicable. Indicate what action, if any, taken on suspension recommendation(s) or clemency recommendations from the judge.]

1. Sentence Adjudged. On 8 December 2020, ITC Briggs, U.S. Navy, was sentenced to confinement for 31 months and reduction to the pay grade of E-4.
2. Action. In the case of United States v. Chief Information Systems Technician Charles T. Briggs, U. S. Navy, the sentence is approved.
3. Confinement Credit. The military judge awarded 480 days of pretrial confinement credit in this case.
4. Initial Place of Confinement. Naval Consolidated Brig Charleston, Detachment Chesapeake, VA
5. Companion Case. There were no companion cases.
6. Statutory Reporting Requirements. DNA collection and submission are required in accordance with 10 U.S.C. 1565 and DoDI 5505.14. Sex offender registration is not required in accordance with appendix 4 to enclosure 2 of DoDI 1325.07. The Gun Control Act, 18 U.S.C. 922, does apply in this case.
7. Deferral and Waiver. There has been no request for deferral or waiver.
8. Matters Considered. In taking this action, I have considered the Memorandum of Plea Agreement of 9 November 2020, Statement of Trial Results of 8 December 2020, and defense counsel's clemency request of 18 December 2020. After careful consideration, I decline to grant defense counsel's request to reduce ITC Briggs to the pay grade of E-5 instead of the reduction to E-4 awarded by the military judge.

29. Convening authority's written explanation of the reasons for taking action on offenses with mandatory minimum punishments or offenses for which the maximum sentence to confinement that may be adjudged exceeds two years, or offenses where the adjudged sentence includes a punitive discharge (Dismissal, DD, BCD) or confinement for more than six months, or a violation of Art. 120(a) or 120(b) or 120b:

[Empty box for written explanation]

30. Convening Authority's signature 	31. Date 20 Jan 2021
--	-------------------------

32. Date convening authority action was forwarded to PTPD or Review Shop.

ENTRY OF JUDGMENT

ENTRY OF JUDGMENT

SECTION A - ADMINISTRATIVE

1. NAME OF ACCUSED (LAST, FIRST, MI)		2. PAYGRADE/RANK	3. DoD ID NUMBER
BRIGGS, CHARLES T.		E7	[REDACTED]
4. UNIT OR ORGANIZATION		5. CURRENT ENLISTMENT	6. TERM
NAVAL MEDICAL CENTER PORTSMOUTH		20 DECEMBER 2017	4 YEARS
7. CONVENING AUTHORITY (UNIT/ORGANIZATION)	8. COURT-MARTIAL TYPE	9. COMPOSITION	10. DATE COURT-MARTIAL ADJOURNED
CDR, NAVY REGION MID-ATLANTIC	General	Judge Alone - MJA16	08-Dec-2020

SECTION B - ENTRY OF JUDGMENT

****MUST be signed by the Military Judge (or Circuit Military Judge) within 20 days of receipt****

11. Findings of each charge and specification referred to trial. [Summary of each charge and specification (include at a minimum the gravamen of the offense), the plea of the accused, the findings or other disposition accounting for any exceptions and substitutions, any modifications made by the convening authority or any post-trial ruling, order, or other determination by the military judge. R.C.M. 1111(b)(1)]

CHARGE: VIOLATION OF THE UCMJ, ARTICLE 121

Specification (Unauthorized Distribution of Classified Information Obtained from a Government Computer): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on or about 9 January 2019, knowingly access a government computer with an unauthorized purpose and obtained classified information, to wit: an email containing SECRET classified information, with reason to believe the information could be used to injure the United States or benefit a foreign nation, and intentionally transmitted such information to [REDACTED] a Russian national, a person not entitled to receive it.

PLEA- GUILTY, FINDINGS - GUILTY

Charge II: Violation of Article 107

Specification 1 (False Official Statement): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on or about 20 April 2018, with intent to deceive, sign an official document, to wit: an SCI pre-screening interim questionnaire, which document was false in that he wrote "No" to the question, "Did you maintain a close and continuing relationship with anyone that is not a U.S. citizen?", and was then known by the said ITC Briggs to be so false.

PLEA- GUILTY, FINDINGS - GUILTY

Specification 2 (False Official Statement): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on or about 6 September 2018, with intent to deceive, sign an official document, to wit: [REDACTED] Form 13, which document was false in that he wrote "No" to the question, "Did you meet a foreign national who requested future contact?", and was then known by the said ITC Briggs to be so false.

PLEA- GUILTY, FINDINGS - GUILTY

Specification 3 (False Official Statement): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on or about 9 November 2018, with intent to deceive, sign an official document, to wit: his NSIPS leave request for 26 November 2018 through 7 December 2018, which document was false in that he wrote he was staying in Nebraska for his leave period, and was then known by the said ITC Briggs to be so false.

PLEA- GUILTY, FINDINGS - GUILTY

***** CONTINUED ON SEPARATE PAGE *****

12. Sentence to be Entered. Account for any modifications made by reason of any post-trial action by the convening authority (including any action taken based on a suspension recommendation), confinement credit, or any post-trial rule, order, or other determination by the military judge. R.C.M. 1111(b)(2). If the sentence was determined by a military judge, ensure confinement and fines are segmented as well as if a sentence shall run concurrently or consecutively.

For specification 1 of Charge I, to be confined for 18 Months

For Charge II:

Specification 1: to be confined for a period of three months

Specification 2: to be confined for a period of four months

Specification 3: to be confined for a period of six months

All confinement to run consecutively with each other.

To be reduced to the pay grade of E-4.

The Accused was credited with 480 days of pretrial confinement credit.

13. Deferment and Waiver. Include the nature of the request, the CA's Action, the effective date of the deferment, and date the deferment ended. For waivers, include the effective date and the length of the waiver. RCM 1111(b)(3)

N/A

14. Action convening authority took on any suspension recommendation from the military judge:

N/A

15. Judge's signature: ■

[Redacted signature area]

16. Date judgment entered:

Mar 8, 2021

17. In accordance with RCM 1111(c)(1), the military judge who entered a judgment may modify the judgment to correct computational or clerical errors within 14 days after the judgment was initially entered. Include any modifications here and resign the Entry of Judgment.

[Empty box for modifications]

18. Judge's signature:

[Empty signature box]

19. Date judgment entered:

[Empty date box]

Entry of Judgment

BRIGGS, CHARLES T

Continued...

CHARGE III: VIOLATION OF UCMJ, ARTICLE 92

Specification 1 (*Violation of a Lawful General Order*) In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, between on or about 26 November 2018 and on or about 27 December 2018, fail to obey a lawful general regulation, to wit: SECNAVINST 5510.30-M, paragraph 3-8, dated June 2006, as incorporated into SECNAVINST 5510.30B, dated 6 October 2006, by wrongfully failing to properly report his foreign travel to Serbia.

PLEA- NOT GUILTY, FINDINGS-WITHDRAWN/DISMISSED

Specification 2 (*Violation of a Lawful General Order*) In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, between on or about May 2017 and on or about 25 January 2019, fail to obey a lawful general regulation, to wit: SECNAVINST 5510.30-M, paragraph 3-8, dated June 2006, as incorporated into SECNAVINST 5510.30B, dated 6 October 2006, by wrongfully failing to properly report his foreign connections to █████ a Russian national, and █████ an Italian National, to his security manager.

PLEA- NOT GUILTY, FINDINGS- WITHDRAWN/DISMISSED

CHARGE IV: VIOLATION OF THE UCMJ, ARTICLE 131B

Specification (*Obstructing Justice*): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, between on or about 25 January 2019 and on or about 5 February 2019, wrongfully do a certain act, to wit: inform █████, a Russian national, of the ongoing investigation into their relationship, with intent to obstruct the due administration of justice in his case, which the accused had reason to believe that there would be disciplinary or criminal proceedings pending against him.

PLEA- NOT GUILTY, FINDINGS- WITHDRAWN/DISMISSED

CHARGE V: VIOLATION OF UCMJ, ARTICLE 134

Specification 1 (Communicating Defense Information): In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on divers occasions between on or about October 2018 and on or about January 2019, having lawful access to information relating to the national

defense of the United States, which information he had reason to believe could be used to the injury of the United States or to the advantage of a foreign nation, did knowingly and willfully communicate information relating to the national defense to [REDACTED] a Russian national, a person not entitled to receive the information in violation of Title 18 United States Code, Section 793(d), an offense not capital.

PLEA- NOT GUILTY, FINDINGS- WITHDRAWN/DISMISSED

Specification 2 (Possessing Child Pornography):

In that Information Technology Chief Petty Officer Charles T. Briggs, U.S. Navy, Naval Medical Center Portsmouth, VA, on active duty, did, at or near Offutt Air Force Base, NE, on or about July 2018, knowingly and wrongfully possess child pornography, to wit: a digital image of a minor engaging in sexually explicit conduct, such conduct being of a nature to bring discredit upon the armed forces.

PLEA- NOT GUILTY, FINDINGS- WITHDRAWN/DISMISSED

APPELLATE INFORMATION

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

Before Panel No. 3

UNITED STATES

Appellee

v.

Charles T. BRIGGS
Chief Information Systems
Technician (E-7)
U.S. Navy

Appellant

NMCCA Case No. 202100093

**APPELLANT'S MOTION FOR
FIRST ENLARGEMENT OF TIME**

Tried at Norfolk, Virginia, on July 22,
2020 (arraignment) and December 8,
2020 (trial) before a General Court-
Martial convened by the Commander,
Navy Region Mid-Atlantic,
Commander Hayes C. Larsen, JAGC,
USN, presiding

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

COMES NOW the undersigned and respectfully moves for a first enlargement of time to file a brief and assignments of error. The current due date is June 6, 2021. The number of days requested is thirty. The requested due date is July 6, 2021.

Status of the case:

1. The Record of Trial was docketed on April 6, 2021.
2. The Moreno III date is October 6, 2022.
3. Chief Information Systems Technician (ITC) Briggs is confined. His normal release date is on or about October 2, 2021.
4. The record consists of 212 transcribed pages and 701 total pages.

5. Counsel reviewed the digital record of trial, which consists of two volumes, and is working with Code 30 to review Prosecution Exhibits 2 through 8, and the testimony of one witness, which are all classified and therefore not included in the digital record of trial.

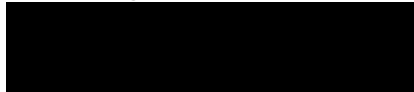
Good cause exists for granting the requested enlargement because counsel needs additional time to review the record in this case, and Code 30 is working to grant counsel access to the classified portions of the record of trial. Until counsel has reviewed the classified exhibits and witness testimony, counsel cannot complete the record review in this case.

Appellant has been consulted and concurs with the enlargement request.

Respectfully submitted.

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

Michael E. Maffei
CDR, JAGC, USN
Appellate Defense Counsel
Navy-Marine Corps Appellate Review Activity
1254 Charles Morris Street, SE
Building 58, Suite 100
Washington, DC 20374



CERTIFICATE OF FILING AND SERVICE

I certify that this document was emailed to the Court's filing address on May 19, 2021, that a copy was uploaded into the Court's case management system on May 19, 2021, *and* that a copy of the foregoing was emailed to Director and Deputy Director, Appellate Government Division, on May 19, 2021.

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

Michael E. Maffei
CDR, JAGC, USN
Appellate Defense Counsel

[REDACTED]

Subject: RECEIPT - FILING - Panel 3 - U.S. v. Briggs - NMCCA 202100093 - D1EOT (Maffei)
Signed By: [REDACTED]

RECEIVED
May 19 2021
United States Navy-Marine Corps
Court of Criminal Appeals

[REDACTED]

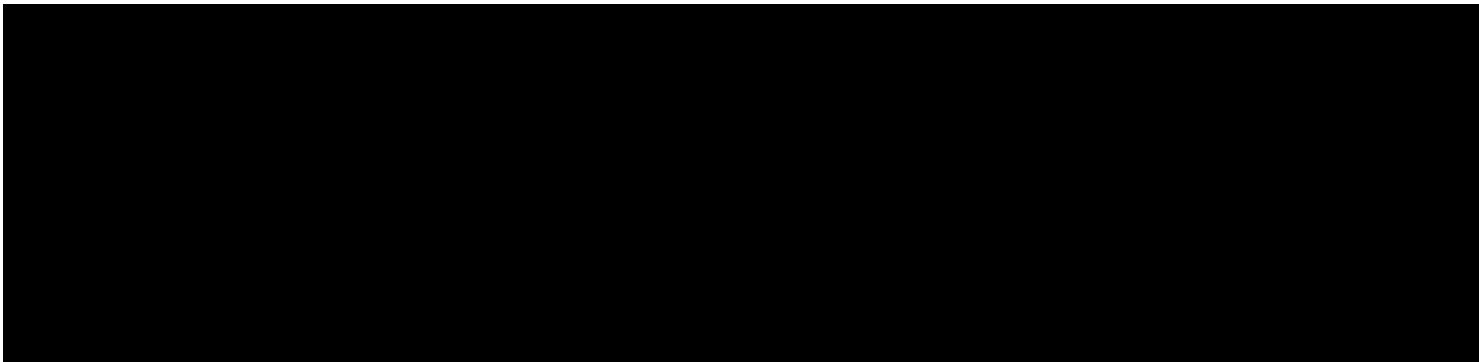
Subject: FILING - Panel 3 - U.S. v. Briggs - NMCCA 202100093 - D1EOT (Maffei)

Good morning,

Please see attached filing.

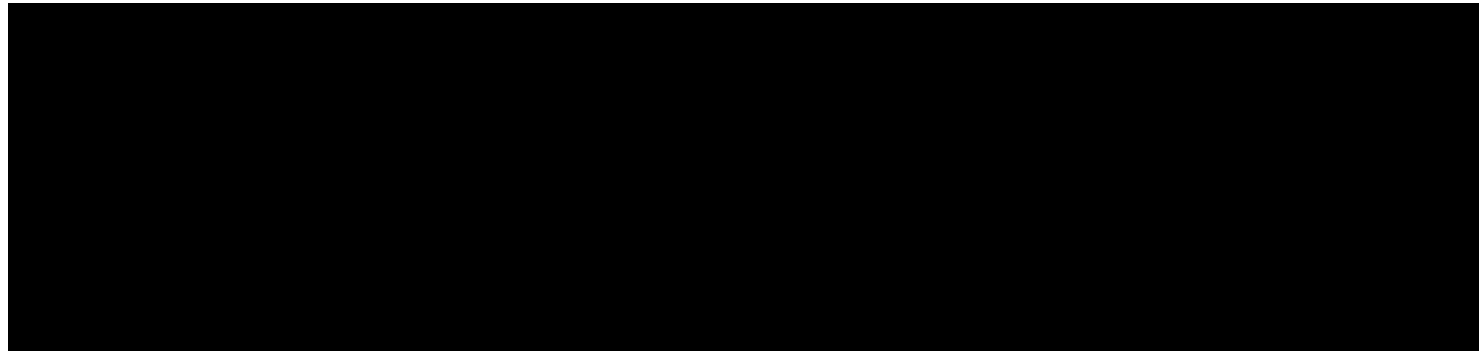
Very respectfully,

[REDACTED]
Office Manager
Navy-Marine Corps Appellate Review Activity
Appellate Defense Division (Code 45)
1254 Charles Morris Street SE
Washington Navy Yard, DC 20374
[REDACTED]



Subject: RULING - FILING - Panel 3 - U.S. v. Briggs - NMCCA 202100093 - D1EOT (Maffei)
Signed By: [Redacted]

MOTION GRANTED
May 19 2021
United States Navy-Marine Corps
Court of Criminal Appeals

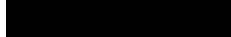


Subject: FILING - Panel 3 - U.S. v. Briggs - NMCCA 202100093 - D1EOT (Maffei)

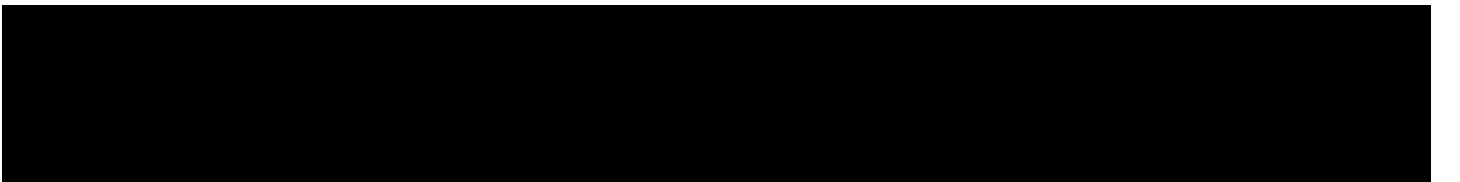
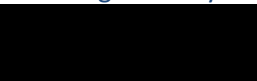
Good morning,

Please see attached filing.

Very respectfully,



Office Manager
Navy-Marine Corps Appellate Review Activity
Appellate Defense Division (Code 45)
1254 Charles Morris Street SE
Washington Navy Yard, DC 20374



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

Before Panel No. 3

UNITED STATES

Appellee

v.

Charles T. BRIGGS
Chief Information Systems
Technician (E-7)
U.S. Navy

Appellant

**APPELLANT'S BRIEF AND
ASSIGNMENT OF ERROR**

NMCCA Case No. 202100093

Tried at Norfolk, Virginia, on July
22, 2020 (arraignment) and
December 8, 2020 (trial) before a
General Court-Martial convened by
the Commander, Navy Region Mid-
Atlantic, Commander Hayes C.
Larsen, JAGC, USN, presiding

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

Michael Maffei
CDR, JAGC, USN
Appellate Defense Counsel
Navy-Marine Corps Appellate Review Activity
1254 Charles Morris Street, SE
Building 58, Suite 100
Washington, DC 20374



Issue Presented

Should the Court remand the case with an order directing the Military Judge to correct the Entry of Judgment so that it accurately reports Appellant's pleas to Charge I and the sole specification thereunder, a violation of the UCMJ, Article 123, as well as Charge VI and the sole specification thereunder, a violation of the UCMJ, Article 80?

Statement of Statutory Jurisdiction

The Convening Authority (CA) approved a court-martial sentence that included a sentence of confinement for two years or more. Therefore, this Court has jurisdiction Article 66(b)(3), 10 U.S.C. § 866(b)(3) (2019).

Statement of the Case

A general court-martial composed of a military judge alone convicted Chief Information Systems Technician Briggs consistent with his pleas of one specification under Charge I, Article 123, UCMJ, 10 U.S.C. § 923 (2019) and three specifications under Charge II, Article 107, UCMJ, 10 U.S.C. § 907 (2019).

The military judge also found Appellant not guilty, in accordance with his pleas, of two specifications under Charge III, Article 92, UCMJ, 10 U.S.C. § 892 (2019), one specification under Charge IV, Article 131b, UCMJ, 10 U.S.C. § 931b (2019), two specifications under Charge V, Article 134, UCMJ, 10 U.S.C. § 934 (2019), and one specification under Charge VI, Article 80, UCMJ, 10 U.S.C. § 880 (2019). The charges and specifications to which Appellant pled not guilty (Charges III – VI) were later withdrawn and dismissed.

The military judge sentenced Appellant to be reduced to paygrade E-4, to be confined for eighteen months for the sole specification of Charge I, to be confined for three months for Specification 1 of Charge II, to be confined for four months for Specification 2 of Charge II, and to be confined for six months for Specification 3 of Charge II, all of which was to run consecutively for a total of 31 months of confinement. (R. at 210.) The military judge credited Appellant with 480 days of pretrial confinement credit against the term of confinement. (R. at 123.) The pretrial agreement did not affect the adjudged sentence. (*See* Appellate Exhibit VII.) The convening authority approved the sentence as adjudged. (Convening Authority's Action at 2.)

Statement of Facts

Appellant pled guilty to Charge I and its sole specification, a violation of UCMJ Article 123, unauthorized distribution of classified information obtained from a government computer, alleging that on or about January 9, 2019, at or near Offutt Air Force Base, he knowingly accessed a government computer with an unauthorized purpose and obtained classified information, an email containing SECRET classified information, with reason to believe the information could be used to injure the United States or benefit a foreign nation, and intentionally transmitted such information to L.S., a Russian national, a person not entitled to

receive it. (Charge Sheet; R. at 62 (plea); R. at 92-104 (providence inquiry); Prosecution Exhibit (“PE”) 1 at 4 (Stipulation of Fact).)

Appellant pled not guilty to Charge VI and its sole specification, a violation of UCMJ Article 80, attempted viewing of child pornography, and the government later withdrew and dismissed Charges III through VI without prejudice. (Charge Sheet; R at 62 (plea); R. at 120 (motion to withdraw and dismiss).)

The Statement of Trial Results correctly report that Appellant pled guilty to Charge I and its sole specification, a violation of Article 123. (Statement of Trial Results at 2.) However, the Entry of Judgment states that Appellant plead guilty in Charge I to a violation of Article 121.

The Statement of Trial Results correctly reports that Appellant pled not guilty to Charge VI and its sole specification, a violation of Article 80. (Statement of Trial Results at 2). However, the Entry of Judgment’s two unnumbered continuation pages omit Charge VI, Appellant’s not guilty plea, and the findings that the charge was withdrawn and dismissed.

Summary of Argument

An accused is entitled to an official record accurately reflecting the results of his court-martial. For Charge I and its sole specification, as well as Charge VI and its sole specification, the Entry of Judgment is incorrect. For Charge I, the Entry of Judgment reports that Appellant pled guilty to Article 121, when in fact he pled

guilty to Article 123. And the Entry of Judgment's two unnumbered continuation pages entirely omits Charge VI, Appellant's not guilty plea, and the findings that the charge was withdrawn and dismissed.

This Court should order remand of Appellant's case for new post-trial processing. Specifically, the Court should direct the Military Judge on remand to file an Entry of Judgment that correctly reports Appellant's pleas and the findings.

Argument

The Court should remand the case with instructions directing the Military Judge to modify the Entry of Judgment so that it accurately reports Appellant's pleas to Charge I and the sole specification thereunder, as well as Charge VI and the sole specification thereunder.

Standard of Review

The standard of review for determining whether post-trial processing was completed properly is de novo. *United States v. Kho*, 54 M.J. 63 (C.A.A.F. 2000).

Analysis

After final adjournment of a general or special court-martial the military judge shall sign and include in the record a Statement of Trial Results. Art. 60(a)(1), UCMJ, 10 U.S.C. § 860(a)(1) (2019); RULE FOR COURTS-MARTIAL (R.C.M.) 1101(a)(1), MANUAL FOR COURTS-MARTIAL, UNITED STATES (2019 ed.). That document shall state, for each charge and specification referred to trial: "(A) a summary of each charge and specification; (B) the plea(s) of the accused; (C) the

finding or other disposition of each charge and specification.” R.C.M. 1101(a)(1).

“Copies of the Statement of Trial Results shall be provided promptly to the convening authority, the accused, and any victims of the offense.” Art. 60(a)(2), UCMJ, 10 U.S.C. § 860(a)(2) (2019).

Article 60c, UCMJ, and R.C.M. 1111 address entry of judgment. In a general or special court-martial, the military judge shall enter into the record of trial the judgement of the court. Art. 60c(a)(1), UCMJ, 10 U.S.C. § 860c(a)(1) (2019); R.C.M. 1111(a)(1). The judgment shall consist of the Statement of Trial Results and any modifications of, or supplements to, the Statement of Trial Results. Art. 60c(a)(1)(A)-(B), UCMJ, 10 U.S.C. § 860c(a)(1)(A)-(B) (2019).

“The judgment reflects the result of the court-martial, as modified by any post-trial actions, rulings, or orders,” and entry of the judgment terminates the proceedings at the trial level and starts the appellate process. R.C.M. 1111(b). For each charge and specification referred to trial, the judgment shall include: “(A) a summary of each charge and specification; (B) the plea of the accused; and (C) the findings or other disposition of each charge and specification accounting for any modifications made by reason of any post-trial action by the convening authority or any post-trial ruling, order, or other determination by the military judge.” R.C.M. 1111(b)(1).

In this case, the Statement of Trial Results accurately reports that Appellant pled guilty to Charge I and its sole specification, a violation of UCMJ Article 123. The Statement of Trial Results also accurately reports that Appellant pled not guilty to Charge VI and its sole specification, a violation of UCMJ Article 80, and that the charge and specification were withdrawn and dismissed.

The Entry of Judgment, however, reports that for Charge I and its sole specification, Appellant pled guilty to Article 121, not Article 123. Further, the Entry of Judgment on the two unnumbered continuation pages entirely omits Charge VI, Appellant's not guilty plea, and that the findings were withdrawn and dismissed.

“An appellant is entitled to an official record accurately reflecting the results of his proceedings.” *United States v. Lin*, 78 M.J. 850, 866 (N-M. Ct. Crim. App. 2019) (citing *United States v. Crumpley*, 49 M.J. 538, 539 (N-M. Ct. Crim. App. 1998)). The Entry of Judgment in Appellant's case is inaccurate, and it requires correction.

Conclusion

WHEREFORE, this Court should remand the case with instructions directing the Military Judge to modify the Entry of Judgment so that it accurately

reports Appellant's pleas to Charge I and the sole specification thereunder as well as Charge VI and the sole specification thereunder.

/s/

Michael Maffei
CDR, JAGC, USN
Appellate Defense Counsel
Navy-Marine Corps Appellate Review Activity
1254 Charles Morris Street, SE
Building 58, Suite 100
Washington, DC 20374



Certificate of Filing and Service

I certify the original and three copies of the foregoing were delivered to the Court on July 1, 2021, that a copy was uploaded into the Court's case management system on July 1, 2021, and that a copy of the foregoing was delivered to Director, Appellate Government Division on July 1, 2021.

/s/

Michael Maffei
CDR, JAGC, USN
Appellate Defense Counsel
Navy-Marine Corps Appellate Review Activity
1254 Charles Morris Street, SE
Building 58, Suite 100
Washington, DC 20374



Subject: RECEIPT - FILING-Panel 3- U.S. v Briggs NMCCA Case No. 202100093- D AOE (Maffei/Moore)

Signed By: [REDACTED]

RECEIVED
July 01 2021
United States Navy-Marine Corps
Court of Criminal Appeals

[REDACTED]
Panel Paralegal
Navy-Marine Corps Court of Criminal Appeals
1254 Charles Morris St SE, Ste 320
Washington Navy Yard, DC 20374
[REDACTED]

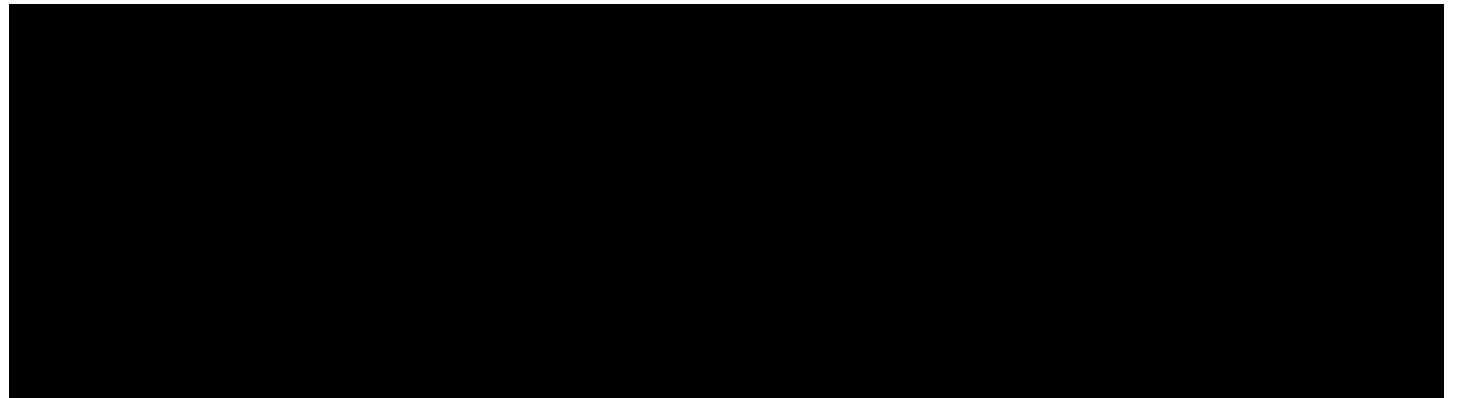
Subject: FILING-Panel 3- U.S. v Briggs NMCCA Case No. 202100093- D AOE (Maffei/Moore)

Clerk of the Court,

Please accept Appellant's brief and assignment of error in the case of *United states v. Briggs*, NMCCA Case No. 202100093.

V/r,

Daniel Moore
LT, JAGC, USN
Appellate Defense Counsel
Washington Navy Yard
Code 45, Navy and Marine Corps Appellate Review Activity



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

Before Panel No. 3

UNITED STATES,	)	APPELLEE’S MOTION FOR FIRST
Appellee	)	ENLARGEMENT OF TIME
)	
v.	)	Case No. 202100093
)	
Charles T. BRIGGS	)	Tried at Norfolk, Virginia, on July 22
Chief Information Systems	)	and December 8, 2020, by a general
Technician (E-7)	)	court-martial convened by
U.S. Navy	)	Commander, Navy Region Mid-
Appellant	)	Atlantic, Commander H. C. Larsen,
	)	JAGC, U.S. Navy, presiding.

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

Pursuant to Rule 23.2 of this Court’s Rules of Appellate Procedure, the United States respectfully moves for a thirty-day enlargement of time from July 31, 2021, to August 30, 2021, to answer Appellant’s Brief and Assignment of Error.

A. Information required by Rule 23.2(c)(3).

Pursuant to Rule 23.2(c)(3), the United States provides the following:

- (A) This case was docketed with the Court on April 6, 2021;
- (B) The *Moreno III* date is October 6, 2022;
- (C) Appellant is confined. His normal release date is March 15, 2022;

(D) The Record consists of 211 transcribed pages and 701 total pages;

(E) Counsel has completed review of the unclassified portions of the Record; and


(F) This case is not complex. Appellant's Assignment of Error relates to an alleged error in the Entry of Judgment.

B. Good cause exists given the need for further research, and drafting.

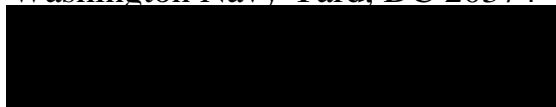
Good cause exists for a First Enlargement. Counsel needs additional time to research the issue raised by Appellant and draft the Answer to ensure it completely and accurately represents the United States' settled position on Appellant's Assignment of Error.

Conclusion

The United States respectfully requests that the Court grant this Motion and extend the time to file its Answer to August 30, 2021.


Megan E. Martino  Digitally signed by
Megan E. Martino

MEGAN E. MARTINO
Lieutenant, JAGC, U.S. Navy
Appellate Government Counsel
Navy-Marine Corps Appellate
Review Activity
Bldg. 58, Suite B01
1254 Charles Morris Street SE
Washington Navy Yard, DC 20374



Certificate of Filing and Service

I certify that this document was emailed to the Court's filing address, uploaded to the Court's case management system, and that a copy of the foregoing was emailed to Appellate Defense Counsel, Commander Michael E. MAFFEI, JAGC, U.S. Navy, on July 27, 2021.

Megan E. Martino  Digitally signed by
Megan E. Martino
MEGAN E. MARTINO
Lieutenant, JAGC, U.S. Navy
Appellate Government Counsel

Subject: RECEIPT - FILING – Panel #3 – U.S. v. Briggs – NMCCA 202100093 – Gov Mot 1st Enlargement (Martino)

Signed By: [REDACTED]

RECEIVED
July 27 2021
United States Navy-Marine Corps
Court of Criminal Appeals

Subject: FILING – Panel #3 – U.S. v. Briggs – NMCCA 202100093 – Gov Mot 1st Enlargement (Martino)

To this Honorable Court:

Please find attached Appellee’s Motion for First Enlargement of Time, for electronic filing in United States v. Briggs, NMCCA No. 202100093.

Thank you.

Very respectfully,

Megan Martino
LT, JAGC, USN
Appellate Government Counsel, Code 46
Navy and Marine Corps Appellate Review Activity
1254 Charles Morris St. SE | Bldg 58, Suite B01
Washington Navy Yard, D.C. 20374-5124
[REDACTED]

Subject: RULING - FILING – Panel #3 – U.S. v. Briggs – NMCCA 202100093 – Gov Mot 1st Enlargement (Martino)

Signed By: [REDACTED]

MOTION GRANTED
July 27 2021
United States Navy-Marine Corps
Court of Criminal Appeals

Subject: FILING – Panel #3 – U.S. v. Briggs – NMCCA 202100093 – Gov Mot 1st Enlargement (Martino)

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Please find attached Appellee’s Motion for First Enlargement of Time, for electronic filing in United States v. Briggs, NMCCA No. 202100093.

Thank you.

Very respectfully,

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LT, JAGC, USN
Appellate Government Counsel, Code 46
Navy and Marine Corps Appellate Review Activity
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Washington Navy Yard, D.C. 20374-5124
[REDACTED]

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

Before Panel No. 3

UNITED STATES,	)	ANSWER ON BEHALF OF
Appellee	)	APPELLEE
)	
v.	)	Case No. 202100093
)	
Charles T. BRIGGS,	)	Tried at Norfolk, Virginia, on July 22
Chief Information Systems (E-7)	)	and December 8, 2020, before a
U.S. Navy	)	general court-martial convened by
Appellant	)	Commander, Navy Region Mid-
	)	Atlantic, Commander H.C. Larsen,
	)	JAGC, USN, presiding.

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

Error Assigned

SHOULD THE COURT REMAND THE CASE WITH AN ORDER DIRECTING THE MILITARY JUDGE TO CORRECT THE ENTRY OF JUDGMENT SO THAT IT ACCURATELY REPORTS APPELLANT'S PLEAS TO CHARGE I AND THE SOLE SPECIFICATION THEREUNDER, A VIOLATION OF ARTICLE 123, AS WELL AS CHARGE VI AND THE SOLE SPECIFICATION THEREUNDER, A VIOLATION OF THE UCMJ, ARTICLE 80?

Statement of Statutory Jurisdiction

Appellant's approved sentence includes one year or more of confinement.

This Court has jurisdiction under Article 66(b)(1), Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 866(b)(1) (2012).

Statement of the Case

A military judge sitting as a general court-martial convicted Appellant, pursuant to his pleas, of one specification of unauthorized distribution of classified information obtained from a government computer, in violation of Article 123, UCMJ, 10 U.S.C. § 923 (2016), and three specifications of false official statement, in violation of Article 107, UCMJ, 10 U.S.C. § 907 (2012). The Military Judge sentenced Appellant to thirty-one months of confinement and a reduction to pay grade E-4. The Convening Authority approved the sentence as adjudged. The Pretrial Agreement did not affect the adjudged sentence.

Statement of Facts

The United States concurs with the facts as set forth in the Appellant's Brief. (Appellant's Br. at 3–4, July 1, 2021.)

Argument

THE COURT SHOULD EXERCISE ITS AUTHORITY UNDER R.C.M. 1111(c)(2) TO CORRECT THE ENTRY OF JUDGMENT SO THAT IT ACCURATELY REFLECTS APPELLANT'S PLEAS TO CHARGE I AND THE SOLE SPECIFICATION THEREUNDER, A VIOLATION OF ARTICLE 123, AS WELL AS CHARGE VI AND THE SOLE SPECIFICATION THEREUNDER, A VIOLATION OF THE UCMJ, ARTICLE 80.

A. Standard of review.

Appellate courts review claims of post-trial processing error for plain error. *United States v. Kho*, 54 M.J. 63, 65 (C.A.A.F. 2000). To prove plain error, an appellant must show: (1) there was an error; (2) it was plain or obvious; and (3) the error materially prejudiced a substantial right. *Id.*

B. Appellant is entitled to an accurate record.

An appellant is entitled to official records that correctly reflect the results of the proceedings, even if the appellant is not prejudiced by the error. *United States v. Crumpley*, 49 M.J. 538, 539 (N-M. Ct. Crim. App. 1998).

C. This Court can and should correct the scrivener's error in Appellant's Entry of Judgment. Appellant alleges no prejudice, and remand is unnecessary.

1. The United States concedes two errors in Appellant's Entry of Judgment.

Appellant pled guilty to Charge I, a violation of Article 123, UCMJ, and its sole specification. (R. 62.) Despite having the correct text of the specification, the Entry of Judgment incorrectly states that Appellant's guilty plea to Charge I was to a violation of Article 121, UCMJ. (Entry of Judgment (E.O.J.) at 1, May 8, 2021.)

Appellant pled not guilty to Charge VI, a violation of Article 80, UCMJ, and its sole specification. (R. 62.) After the Military Judge accepted Appellant's pleas, he granted the Government's Motion to withdraw and dismiss the Charge. (R. 120.) The Entry of Judgment does not include any reference to Charge VI. (*see* E.O.J. at add. 1–2.)

The United States concedes that this is error.

2. This Court should correct Appellant's Entry of Judgment, as contemplated by R.C.M. 1111(c)(2). No remand is necessary.

Rule for Courts-Martial 1111(c)(2) gives this Court the authority to modify an entry of judgment in the performance of its duties and responsibilities.

In *United States v. Stogsdill*, No. 201900203, 2020 CCA LEXIS 156 (N-M. Ct.

Crim. App. May 12, 2020), the appellant's entry of judgment was incorrect. *Id.* at

*5. This Court found no prejudice from the error and took corrective action, modifying the entry of judgment. *Id.* at *6–8.

This Court should similarly exercise its authority under R.C.M. 1111(c)(2) and modify Appellant’s Entry of Judgment to accurately reflect his plea to Additional Charges I and VI. As in *Stogsdill*, Appellant has not been prejudiced, and the Court can remedy the identified error through its decretal paragraph. *See Stogsdill*, 2020 CCA LEXIS 156, at *6–8; *see also* R.C.M. 1111(c)(2).

Conclusion

The United States respectfully requests that this Court take corrective action through its decretal paragraph and affirm the findings and sentence as adjudged.

Megan E. Martino  Digitally signed by
Megan E. Martino

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Lieutenant, JAGC, U.S. Navy
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Kerry E. Friedewald  Digitally signed
by Kerry E.
Friedewald


KERRY E. FRIEDEWALD
Major, U.S. Marine Corps
Senior Appellate Counsel
Navy-Marine Corps Appellate

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Certificate of Filing and Service

I certify that the original and required number of copies of the foregoing were delivered to the Court, uploaded to the Court's case management system, and that a copy of the foregoing was delivered to Appellate Defense Counsel, Commander Michael MAFFEI, JAGC, U.S. Navy, on August 17, 2021.

Megan E. Martino  Digitally signed by
Megan E. Martino
MEGAN E. MARTINO
Lieutenant, JAGC, U.S. Navy
Appellate Government Counsel



Subject: RECEIPT - FILING – Panel #3 – U.S. v. Briggs – NMCCA 202100093 – Gov Answer (Martino)

Signed By: 

RECEIVED
Aug 17 2021
United States Navy-Marine Corps
Court of Criminal Appeals




Subject: FILING – Panel #3 – U.S. v. Briggs – NMCCA 202100093 – Gov Answer (Martino)

To this Honorable Court:

Please find attached Answer on Behalf of Appellee, for electronic filing in United States v. Briggs, NMCCA No. 202100093.

Thank you.

Very respectfully,

Megan Martino
LT, JAGC, USN
Appellate Government Counsel, Code 46
Navy and Marine Corps Appellate Review Activity
1254 Charles Morris St. SE | Bldg 58, Suite B01
Washington Navy Yard, D.C. 20374-5124




This opinion is subject to administrative correction before final disposition.

United States Navy - Marine Corps
Court of Criminal Appeals

Before
GASTON, HOLIFIELD, and MYERS
Appellate Military Judges

UNITED STATES
Appellee

v.

Charles T. BRIGGS
Information Technology Chief Petty Officer (E-7), U.S. Navy
Appellant

No. 202100093

Decided: 26 July 2022

Appeal from the United States Navy-Marine Corps Trial Judiciary

Military Judge:
Hayes D. Larson

Sentence adjudged 8 December 2020 by a general court-martial convened at Naval Station Norfolk, Virginia, consisting of a military judge sitting alone. Sentence in the Entry of Judgment: reduction to E-4 and confinement for 31 months.

For Appellant:
Commander Michael Maffei, JAGC, USN

**This opinion does not serve as binding precedent under
NMCCA Rule of Appellate Procedure 30.2(a).**

United States v. Briggs, NMCCA No. 202100093
Opinion of the Court

PER CURIAM:

Appellant was convicted, pursuant to his pleas, of false official statements and unauthorized distribution of classified information obtained from a government computer, in violation of Articles 107 and 121, Uniform Code of Military Justice [UCMJ].¹

In his sole assignment of error, he asserts the Entry of Judgment fails to accurately reflect his pleas. The Government concedes the apparent scrivener's error. Although we find no prejudice, Appellant is entitled to have court-martial records that correctly reflect the content of his proceeding.² In accordance with Rule for Courts-Martial 1111(c)(2), we modify the Entry of Judgment and direct that it be included in the record.

We have determined that the findings and sentence as reflected in the modified Entry of Judgment are correct in law and fact and that no error materially prejudicial to Appellant's substantial rights occurred.³ The findings and sentence are **AFFIRMED**.



FOR THE COURT:

[REDACTED]
S. TAYLOR JOHNSTON
Interim Clerk of Court

¹ 10 U.S.C. §§ 907, 921.

² *United States v. Crumpley*, 49 M.J. 538, 539 (N-M. Ct. Crim. App. 1998).

³ Articles 59 & 66, Uniform Code of Military Justice, 10 U.S.C. §§ 859, 866.

United States Navy - Marine Corps Court of Criminal Appeals

UNITED STATES

v.

Charles T. BRIGGS
Information Technology Chief Petty
Officer (E-7)
U.S. Navy

Accused

NMCCA NO. 202100093

**ENTRY
OF
JUDGMENT**

As Modified on Appeal

26 July 2022

On 8 December 2020, the Accused was tried at Naval Station Norfolk, Virginia, by a general court-martial, consisting of a military judge sitting alone. Military Judge Hayes D. Larson presided.

FINDINGS

The following are the Accused's pleas and the Court's findings to all offenses the convening authority referred to trial:

Charge I: Violation of Article 123, Uniform Code of Military Justice, 10 U.S.C. § 923.

Plea: Guilty.

Finding: Guilty.

Specification: Unauthorized distribution of classified information obtained from a government computer on or about 9 January 2019.

Plea: Guilty.

Finding: Guilty.

Charge II: Violation of Article 107, Uniform Code of Military Justice, 10 U.S.C. § 907.

Plea: Guilty.

Finding: Guilty.

Specification 1: False official statement on or about 20 April 2018.

United States v. Briggs, NMCCA No. 202100093
Modified Entry of Judgment

Plea: Guilty.

Finding: Guilty.

Specification 2: False official statement on or about 6 September 2018.

Plea: Guilty.

Finding: Guilty.

Specification 3: False official statement on or about 9 November 2018.

Plea: Guilty.

Finding: Guilty.

**Charge III: Violation of Article 92, Uniform Code of Military Justice,
10 U.S.C. § 892.**

Plea: Not Guilty.

Finding: Dismissed.

**Specification 1: Violation of a lawful general order between on or
about 26 November 2018 and on or about 27 December
2018.**

Plea: Not Guilty.

Finding: Dismissed.

**Specification 2: Violation of a lawful general order between on or
about May 2017 and on or about 25 January 2019.**

Plea: Not Guilty.

Finding: Dismissed.

**Charge IV: Violation of Article 131B, Uniform Code of Military Justice,
10 U.S.C. § 931B.**

Plea: Not Guilty.

Finding: Dismissed.

**Specification: Obstruction of justice between on or about 25 January
2019 and on or about 5 February 2019.**

Plea: Not Guilty.

Finding: Dismissed.

**Charge V: Violation of Article 134, Uniform Code of Military Justice,
10 U.S.C. § 934.**

Plea: Not Guilty.

Finding: Dismissed.

Specification 1: Communication of national defense information on divers occasions between on or about October 2018 and on or about January 2019.

Plea: Not Guilty.

Finding: Dismissed.

Specification 2: Possession of child pornography on or about July 2018.

Plea: Not Guilty.

Finding: Dismissed.

Charge VI: Violation of Article 80, Uniform Code of Military Justice, 10 U.S.C. § 880.

Plea: Not Guilty.

Finding: Dismissed.

Specification: Attempted viewing of child pornography on divers occasions between in or about June 2018 and in or about December 2018.

Plea: Not Guilty.

Finding: Dismissed.

SENTENCE

On 8 December 2020, a military judge sentenced the Accused to the following:

Reduction to pay grade E-4.

Confinement for a total of 31 months, as follows:

For the Specification of Charge I:
confinement for 18 months.

For Specification 1 of Charge II:
confinement for three months.

For Specification 2 of Charge II:
confinement for four months.

For Specification 3 of Charge II:
confinement for six months.

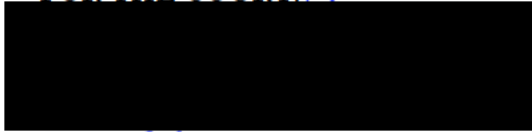
The terms of confinement will run consecutively.

The Accused has served 480 days pretrial confinement and shall be credited with 480 days of confinement already served, to be deducted from the adjudged sentence to confinement.

United States v. Briggs, NMCCA No. 202100093
Modified Entry of Judgment



FOR THE COURT:



S. TAYLOR JOHNSTON
Interim Clerk of Court

REMAND

THERE WERE NO REMANDS

**NOTICE OF COMPLETION OF
APPELLATE REVIEW**



DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS APPELLATE REVIEW ACTIVITY
1254 CHARLES MORRIS STREET SE
WASHINGTON NAVY YARD DC 20374-5214

5814
40/202100093
2 Dec 22

From: Director, Military Justice Administration Division (Code 40)
To: Commander, Navy Region Mid-Atlantic
Via: Officer-In-Charge, Regional Legal Services Office Mid-Atlantic, Norfolk, Virginia

Subj: NOTIFICATION OF COMPLETION OF APPELLATE REVIEW IN THE GENERAL COURT-MARTIAL OF INFORMATION TECHNOLOGY CHIEF PETTY OFFICER CHARLES T. BRIGGS, USN – NMCCA 202100093

Ref: (a) Uniform Code of Military Justice, Article 57 (c)(2) and Article 66
(b) Manual for Courts-Martial, Rule 1209 (a)(1)(B)(i), (2019 Ed.)

Encl: (1) Post Trial Action of 20 Jan 21 and Entry of Judgment of 8 Mar 21
(2) Naval Clemency and Parole Board Clemency Review of 26 May 21
(3) NMCCA Opinion of 26 Jul 22

1. Information Technology Chief Petty Officer (ITC) Charles T. Briggs, USN – NMCCA 202100093 was arraigned, tried, and convicted at a General Court-Martial convened by the Commander, Navy Region Mid-Atlantic, Norfolk, Virginia. ITC Briggs was sentenced on 8 December 2020, to reduction to E-4 and confinement for 31 months. (Encl. 1)

2. The 31 month sentence awarded to ITC Briggs triggered an automatic review by the Naval Clemency & Parole Board (NC&PB). ITC Briggs was denied clemency by the NC&PB on 5 May 2021. (Encl. 2)

3. In an Opinion issued 26 July 2022, the United States Navy-Marine Corps Court of Criminal Appeals (NMCCA), pursuant to Article 66, UCMJ, affirmed the findings and the sentence of the General Court-Martial. (Encl. 3)

4. Accordingly, all appellate review is now complete in the General Court-Martial of Information Technology Chief Petty Officer Charles T. Briggs, USN – NMCCA 202100093. Article 57 (c)(2), U.C.M.J. and Rule 1209 (a)(1)(B)(i), M.C.M. have been complied with. The sentence awarded to Information Technology Chief Petty Officer Charles T. Briggs may now be executed.

5. Point of contact for this matter is Mr. [REDACTED] Branch Head, Court-Martial Records;
[REDACTED]

Copy to:
Appellant
SJA, MidLant
NAMALA
File