

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

**OPPOSITION TO MOTION TO
ATTACH DEFENSE
APPELLATE EXHIBITS A-C**

v.

Docket No. ARMY 20230576

Warrant Officer 1 (WO-1)

JOSEPH S. BURCH,

United States Army,

Appellant

Tried at Fort Novosel, Alabama on 10 April, 28 July, and 6 November 2023 before a general court-martial convened by Commander, Fort Novosel, Lieutenant Colonel Trevor Barna and Lieutenant Colonel Pamela Jones, Military Judges, presiding.

TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES ARMY COURT OF CRIMINAL APPEALS

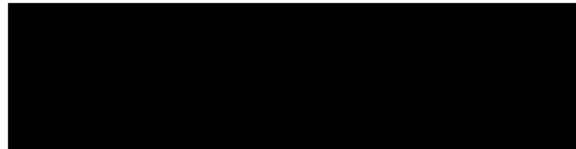
Pursuant to Rule 23(c) of this honorable court’s Rules of Appellate Procedure, the undersigned appellate government counsel files this opposition to appellant’s Motion to Attach Appellate Exhibits A–C, dated 23 February 2024.

Courts of criminal appeals may not consider anything outside of the “entire record” when reviewing a sentence under Article 66(c), Uniform Code of Military Justice. *United States v. Willman*, 81 M.J. 355, 358 (C.A.A.F. 2021) (citing *United States v. Fagnan*, 12 U.S.C.M.A. 192, 30 C.M.R. 192 (1961)); *United States v. Jessie*, 79 M.J. 437 (C.A.A.F. 2021) (declining to consider material outside the record beyond the context of Article 55, UCMJ, and the Eighth Amendment).

WHEREFORE, the United States prays this honorable court deny appellant's motion.



Vy T. Nguyen
CPT, JA
Appellate Attorney, Government
Appellate Division



Chase C. Cleveland
MAJ, JA
Branch Chief, Government
Appellate Division

CERTIFICATE OF SERVICE, U.S. v. BURCH (20230576)

I certify that a copy of the foregoing was sent via electronic submission to
the Defense Appellate Division at [REDACTED]

[REDACTED] on the 27th day of February, 2024.

[REDACTED]

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