

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES,
Appellee

**RESPONSE IN OPPOSITION TO
MOTION FOR ORAL
ARGUMENT**

v.

Chief Warrant Officer Two (CW2)
ROMANFERMIN D. BORJA,
United States Army,
Appellant

Docket No. ARMY 20220303

Tried at Fort Liberty,¹ North Carolina,
on 2 December 2021 and 6-8 June
2022 before a general court-martial
convened by Commander,
Headquarters, Fort Liberty, Colonel
Travis L. Rogers, Military Judge,
presiding.

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

COMES NOW, the undersigned appellate government counsel, pursuant to
Rules 23(c) and 23.7 of this honorable court's Rules of Appellate Procedure, and
opposes appellant's motion for oral argument, dated 21 November 2024, on the
following issue, previously not adopted by defense counsel and only raised within
appellant's *Grosteefon*² matters:

¹ At the time of trial, the installation was named Fort Bragg. Effective 2 June 2023,
the installation was officially redesignated as Fort Liberty:
[https://armypubs.army.mil/epubs/DR_pubs/DR_a/ARN38392-AGO_2023-13-000-
WEB-1.pdf](https://armypubs.army.mil/epubs/DR_pubs/DR_a/ARN38392-AGO_2023-13-000-WEB-1.pdf).

² *United States v. Grosteefon*, 12 M.J. 431 (C.M.A. 1982).

WHETHER THE PANEL AS A WHOLE CREATED A PERCEPTION OF UNFAIRNESS WHEN THE MILITARY JUDGE DENIED ALL FIVE DEFENSE CHALLENGES FOR CAUSE, INCLUDING THREE AGAINST MEMBERS WHO WERE SURVIVORS OF SEXUAL ASSAULT OR HAD CLOSE CONNECTIONS TO SURVIVORS OF SEXUAL ASSAULT.

If this honorable court finds the issue meritorious, the Government requests notice and the opportunity to file a supplemental brief addressing this claimed error. This request³ is consistent with the *Grostefon* court's admonition: "We will expect the Courts of Military Review to specify issues and request briefs of those issues which they believe are deserving of that increased attention." *Grostefon*, 12 M.J. at 437.

WHEREFORE, the United States prays this honorable court deny the appellant's motion for oral argument, specifically on the aforementioned second issue.



NICHOLAS A. SCHAFFER
CPT, JA
Appellate Attorney, Government
Appellate Division

³ Undersigned counsel previously made this request within appellee's brief. (Appellee's Br. 1, n. 2).

CERTIFICATE OF SERVICE, U.S. v. BORJA (20220303)

I certify that a copy of the foregoing was sent via electronic submission to
Mr. Daniel Conway, civilian appellate defense counsel, at
[REDACTED], and the Defense Appellate Division, at
[REDACTED], on the 25th day
of November, 2024.

[REDACTED]
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