

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

v.

**MOTION FOR LEAVE TO FILE
SUPPLEMENTAL CITATIONS
OF AUTHORITY (2)**

Sergeant (E-5)

TYRESE S. CAMPBELL

United States Army

Appellant

Docket No. ARMY 20230030

Tried at Fort Bliss, Texas, on 3
October 2022 and 18–22 January
2023, before a general court-martial
convened by the Commander, 1st
Armored Division and Fort Bliss,
Colonel Robert L. Shuck, Military
Judge, presiding.

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

Pursuant to Rule 25.5(b) of this honorable court’s Rules of Appellate
Procedure, the undersigned appellate government counsel requests leave and files
the instant motion for supplemental citations of authority for the following reasons:

1. During the hearing, undersigned counsel referred to the National Defense
Authorization Act for Fiscal Year 2022 (NDAA FY22) and *United States v.*
Whitney, 55 M.J. 413 (C.A.A.F. 2001), citations that were not set forth in the brief
filed prior to argument.

2. The NDAA FY22 struck the “should be approved” language from Article
66(d)(1)(A), UMCJ (2021) but did not take effect until 27 December 2023, two
years after its enactment. *See generally* Pub. L. No. 117-81, § 539E(f), 135 Stat.
1703, 1706. This provision applies to sentences adjudged in cases in which all

findings of guilty are for offenses that occurred after 27 December 2023. *Id.* As the sole finding of guilty in this instant case was for an offense that occurred on 18 July 2022, the provisions of the NDAA FY22 do not apply.

3. The *Whitney* Court considered the curative instruction to disregard statements and questions relating to “human lie detector” testimony. The improper testimony was not immediately objected to and was not addressed until after two court members asked why the witness felt the appellant was not truthful during the interview. In dicta, the court observed that the curative measure taken “could have been clearer and more forceful.” *Whitney*, 55 M.J. at 416. Nonetheless, as there was no evidence the court-martial members had ignored the military judge’s instructions, the appellate court was convinced beyond a reasonable doubt that appellant was not prejudiced by the testimony.

CONCLUSION

WHEREFORE, the United States prays this honorable court grant the instant motion.

MOTION FOR LEAVE TO FILE
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OF AUTHORITY (2)

Panel No. 4

GRANTED: _____

DENIED: _____

DATE: _____



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

CERTIFICATE OF SERVICE, U S v. CAMPBELL (20230030)

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

[REDACTED] on the 31st day of January, 2025.

[REDACTED]
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