IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES Appellee	**BRIEF ON BEHALF OF APPELLANT**
v.	Docket No. ARMY 20230253
Staff Sergeant (E-6) (Retired) **EUGENE S. MORSER,** United States Army, Appellant	Tried at Fort Irwin, California, on 5 April 2022, 20-21 May 2022, 22 August 2022, 30 November 2022, 2 May 2023, and 3 May 2023, before a general court-martial convened by the Commander, Headquarters, National Training Center and Fort Irwin, Colonel Larry B. Babin, and Colonel Matthew S. Fitzgerald, military judge, presiding.

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

The first undersigned appellate defense counsel attests he has, on behalf of appellant, carefully examined the record of trial in this case. Appellant does not admit the findings and sentence are correct in law and fact, and submits the case to this court on its merits with no specific assignments of error.[1]

[redacted]

Beau O. Watkins
Major, Judge Advocate
Branch Chief
Defense Appellate Division

[redacted]

Autumn R. Porter
Lieutenant Colonel, Judge Advocate
Deputy Chief
Defense Appellate Division

[1] Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), appellant respectfully requests this court consider the information provided in the Appendix.

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APPENDIX A

Appendix A: Matters Submitted Pursuant to United States v. Grostefon

Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), the appellant, through appellate defense counsel, personally requests that this court consider the following matters:

A. The United States Army lacked personal jurisdiction over me.

The trial court erred when it found the terms "entitled to pay" included permanent disability pay. I was retired for a permanent medical disability. I am not, nor ever will be entitled to pay within the ordinary meaning of the term. Typically, servicemembers are "entitled to pay" in the context of retirement if they have attained at least twenty years of service. 10 U.S.C. § 7314. I have not attained that length of service. Furthermore, the Court's reliance on *United States v. Bowie*, 34 C.M.R. 808 (A.F.C.M.R. 1964) is misplaced. In *Bowie*, the circumstances are not analogous to my own. *Bowie* at least potentially could have healed and returned to active duty, whereas I will not. Additionally, *Bowie* still had to regularly submit to physical examinations as well as receive pay for travel like an active-duty Soldier. My pay was from the Veteran's Administration and the court failed to consider this. Once I left the Army I was not coming back due to my physical disabilities.

B. Improper Aggravation Evidence was Presented at Trial.

The testimony of [redacted] was less about my crimes an more about how I was, in her opinion, a bad dad. (R at 486-488). Additionally, I was not convicted of ever showing up to [redacted] school or threatening her. (R. at 493).

Another piece of improper aggravation evidence was allowing [redacted], the victim's uncle, to testify. He was not a witness to any of the crimes in question and the crimes impact on him is dubious at best.

C. The Judge failed to give my background sufficient weight when adjudging the sentence.

As I stated in my unsworn, I was the victim of sexual abuse as a child. The same rationale my abuser used on me is what I did to my daughters and their friend, [redacted]. I believe the military judge failed to consider this when determining my sentence.

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was electronically submitted to Army Court and Government Appellate Division on May 9, 2025.

[redacted]
MICHELLE L.W. SURRATT
Paralegal Specialist
Defense Appellate Division
[redacted]