

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES,
Appellee

**BRIEF ON BEHALF OF
APPELLEE**

v.

Docket No. ARMY 20240280

Private First Class (E-3)
DANIEL A. MORGAN,
United States Army,
Appellant

Tried at Schofield Barracks, Hawaii,
on 2 May and 3 June 2024, before a
general court-martial convened by the
Commander, 25th Infantry Division,
Colonel Rebecca Farrell, Military
Judge, presiding

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

Assignments of Error¹

**I. WHETHER THE TRIAL COUNSEL ERRED IN NOT
MOVING TO DISMISS CHARGE V AND ITS
SPECIFICATIONS**

**II. WHETHER THE STATEMENT OF TRIAL RESULTS
FAILED TO INCLUDE THE CHARGED LANGUAGE FOR
CHARGE VIII AND ITS SPECIFICATIONS**

¹ The government has reviewed appellant's *Groste fon* matters and agrees with the defense appellate counsel they do not warrant full briefing. Furthermore, the government respectfully submits that they lack merit. Should this find any of appellant's *Groste fon* matters meritorious, the government respectfully requests notice and an opportunity to file a supplemental brief addressing the claimed error. *United States v. Groste fon*, 12 M.J. 431, 437 (C.M.A. 1982).

Statement of the Case

On 3 June 2024, a military judge sitting as a general court-martial convicted appellant, pursuant to his pleas, of one specification of absence from unit, organization, or place of duty; one specification of aggravated assault by strangulation; and, two specifications of domestic violence by violent offense, in violation of Articles 86, 128, and 128b, Uniform Code of Military Justice, 10 U.S.C. §§ 886, 928, and 928b [UCMJ] respectively. (STR; R. at 62). The military judge sentenced appellant to be reduced to the grade of E-1, discharged from the service with a bad-conduct discharge, and confined for 134 days for each specification for which he pleaded guilty with all the sentences to be served concurrently. (R. at 72). On 2 August 2024, the convening authority took no action. (Action). On 5 August 2024, the military judge entered judgment. (Judgment).

Statement of Facts

On 3 June 2024, appellant entered his guilty plea and was sentenced. (R. 16, 62, 72; STR). Pursuant to appellant’s plea agreement, Charge V and its Specifications were to be dismissed. (App. Ex. III, p. 3). Following the announcement of findings, the Assistant Trial Counsel moved for the dismissal of “Charge V and its specification[.]” (R. at 62). The Military Judge did not find appellant guilty of any specification of Charge V. (R. at 62). The Military Judge did not impose a sentence for any specification of Charge V. (R. at 72). The STR reflects the dismissal of all specifications of Charge V. (STR).

Assignments of Error

I. WHETHER THE TRIAL COUNSEL ERRED IN NOT MOVING TO DISMISS CHARGE V AND ITS SPECIFICATIONS

II. WHETHER THE STATEMENT OF TRIAL RESULTS FAILED TO INCLUDE THE CHARGED LANGUAGE FOR CHARGE VIII AND ITS SPECIFICATIONS

Law and Argument

A. The Military Judge dismissed all specifications of Charge V.

The Government agrees that Trial Counsel misspoke when motioning for the dismissal of “Charge V and its specification,” and that it should have been plural given the existence of more than one specification within Charge V.² (R. at 62; STR). Nonetheless, it is clear there was no resulting confusion, which is clearly demonstrated by the fact that the Military Judge dismissed *all* of the specifications of Charge V. (STR). As such, there is no error for this Court to correct.

B. This Court should correct the STR as appellant requests.

The Government agrees the STR has erroneous language carried over from Charge VII into Charge VIII. (Charge Sheet; STR). This Court should correct the language, consistent with the charge sheet, to read:

² The Government reviewed the audio recording from this session of Court and confirmed the transcript of the proceedings accurately reflected the actual words the Assistant Trial Counsel used. (MORGAN, D. (25ID) GP 3 JUNE 24, at 01:13:40–01:14:03).

CHARGE VIII: VIOLATION OF THE UCMJ, ARTICLE 121.

SPECIFICATION 1: In that Private First Class Daniel A. Morgan, U.S. Army, did at or near the island of Oahu, Hawaii, between on or about 1 November 2022 and on or, about 30 November 2022, wrongfully appropriate an Apple iPhone, of a value of less than \$1,000, the property of [REDACTED]

SPECIFICATION 2: In that Private First Class Daniel A. Morgan, U.S. Army, did at or near the island of Oahu, Hawaii, between on or about 14 September 2022 and on or about 27 September 2022, steal money, of a value of \$1,000 or less, the property of [REDACTED]

(Charge Sheet). This Court has recognized its authority to make such corrections.

United States v. Pennington, No. ARMY 20190605, 2021 CCA LEXIS 101, at *4-

5 (Army Ct. Crim. App. 3 Mar. 2021) ([summ. disp.](#)).

Conclusion

WHEREFORE, the government respectfully requests this honorable court affirm the findings, as corrected, and sentence.



STEWART A. MILLER
CPT, JA
Appellate Attorney, Government
Appellate Division



MAJ, JA
Branch Chief, Government
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K. M. BOHLKE
LTC, JA
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COL, JA
Chief, Government Appellate
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CERTIFICATE OF FILING AND SERVICE.

I certify that a copy of the foregoing was sent via electronic submission to the
Defense Appellate Division at [REDACTED]
[REDACTED] on this 10 day of June 2025.

[REDACTED]

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[REDACTED]