IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES, Appellee v. Specialist (E-4) **SARAH H. THORNTON**, United States Army, Appellant	**BRIEF ON BEHALF OF APPELLEE** Docket No. ARMY 20250210 Tried at Fort Stewart, Georgia, on 31 March 2025 and 22 April 2025, before a general court-martial appointed by the Commander, 3d Infantry Division and Fort Stewart, Lieutenant Colonel Benjamin Hillner, Military Judge, presiding.

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

Assignment of Error[1]

WHETHER THE MILITARY JUDGE ERRED IN ACCEPTING APPELLANT'S GUILTY PLEA TO SPECIFICATION 1 OF CHARGE I.

[1] The government reviewed the matters submitted by appellant pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), and respectfully submits they lack merit. Should this Court consider any of those matters meritorious, the government requests notice and an opportunity to file a supplemental brief addressing the claimed error. *Id*. at 437.

PANEL NO. 2

Statement of the Case

On 22 April 2025, a military judge sitting as a general court-martial convicted appellant, pursuant to her pleas, of one specification of a violent offense against her spouse in violation of Article 128b Uniform Code of Military Justice [UCMJ], 10 U.S.C. § 928b.[2] (R. at 114; Statement of Trial Results [STR]).

The military judge sentenced appellant to be reduced to the grade of E-1 and a bad conduct discharge. (R. at 185, App. Ex. 1; STR). On 27 May 2025, the convening authority took no action on the findings or sentence. (Action). On 6 June 2025, the military judge entered judgment of the court. (Judgment).

Statement of Facts

On 13 March 2025, appellant entered into a plea agreement where she agreed to plead guilty to Specification 1 of Charge I. (Charge Sheet; App. Ex. I). After exceptions and substitutions, Specification 1 of Charge I read:

> In that Specialist Sarah H. Thornton, U.S. Army, did, at or near Fort Stewart, Georgia, on or about 26 January 2024, commit a violent offense against [redacted] the spouse of the accused, to wit: assault [redacted] by threatening to kill him, or words to that effect, and by brandishing at him with a loaded firearm.

(R. at 16–17, 29; STR; App. Ex. I).

[2] Unless otherwise stated, all references to the UCMJ and Rules for Courts-Martial [R.C.M.] are to the versions in the Manual for Courts-Martial, United States (2019 ed.) [*MCM*] [with 2021 and 2022 amendments].

On 22 April 2025, the government convened a general court-martial to hear appellant's plea. (R. at 20; STR). The government entered a four-page stipulation of fact into evidence as Pros. Ex. 1. (R. at 32–36). The stipulation contained provisions in which appellant stated that she was aware of the nature of her actions as stipulated, knew what she did was wrong, "voluntarily chose to engage in the wrongful conduct[,]" and "claim[ed] no defense to her actions." (Pros. Ex. 1). Appellant stated under oath that she had voluntarily signed the stipulation and that it was true and correct. (R. at 32–35). The parties agreed in the stipulation of fact that Pros. Ex. 2 —a video recording of the incident that formed the basis for the charge and specification to which appellant was pleading guilty—would be entered into evidence. (R. at 35; Pros. Ex. 1, p. 4).

The court then explained the elements of Charge I, Specification 1 to appellant. (R. at 36–40). The military judge explained that the violent offense appellant was pleading guilty to was "simple assault with a loaded firearm." (R. at 38–39). The military judge also explained that to be guilty of the offense appellant "must have made a demonstration of force or violence, either by an intentional or by a culpably negligent act or omission, which created in the mind of [redacted] a reasonable apprehension of receiving immediate bodily harm." (R. at 38). The military judge told appellant that if "threatening words are accompanied by a menacing act or gesture, there may be an assault [i]f the combination constitutes a

demonstration of violence." (R. at 39). Appellant told the military judge that she understood the elements and definitions and that they accurately and correctly described her conduct. (R. at 40).

Appellant then described in her own words, under oath, why she was guilty of the charge and specification. (R. at 32, 40). She testified that in January of 2024, she was married to [redacted] and they were living on Ft. Stewart with their baby. (R. at 40, 43–44; Pros. Ex. 1). She testified she felt overwhelmed with her responsibilities as a wife, mother, student, and soldier. She was angry at [redacted] for not helping with house chores, and she got mad at him and wanted him to leave their house. (R. at 40–41). To that end she grabbed a shotgun [redacted] kept in their room, showed it to him, and told him to leave. (R. at 41, 46–47). In order to scare [redacted] she told him, "I'm going to make your son an orphan[.]" (R. at 41).

The military judge then asked appellant, "what words did [she] use that conveyed a threat to kill or words to that effect?" (R. at 44). She testified that [redacted] knew the shotgun was loaded and he asked her if she was going to shoot him. (R. at 44). She responded "Yes." (R. at 44). Appellant testified that she wanted to make [redacted] afraid and he appeared to take her threat seriously. (R. at 45–46). Her threat to make their son an orphan was directed at [redacted] (R. at 45).

The military judge next asked appellant about her actions. (R. at 46–54). She explained that she knew the shotgun was loaded and functioning when she

picked it up. (R at 47, 49–50, 53, 61–62). She knew [redacted] kept it loaded. (R. at 47, 49–50). [redacted] also knew the gun was loaded. (R. at 50). Although appellant could not remember exactly how many shells were in the gun, she testified that there were at least six. (R. at 48). Appellant saw [redacted] clear the shells from the gun immediately after the incident. (R. at 48). Appellant stated that her purpose in holding the loaded shotgun during the argument was to scare [redacted] and put him in fear. (R. at 51, 62).

Appellant believed her words and actions taken together put [redacted] in fear of immediate bodily harm. (R. at 54). She knew because she could see that he was visibly scared and had taken her threats seriously. (R. at 55). She admitted to the military judge that any reasonable person in [redacted] situation would have had the same fear. (R. at 55).

The military judge then asked appellant if, due to the stress she was feeling "with being a full-time student, with work, with having a young child, and feeling that a lot of the household responsibilities were falling on [her] shoulders and then [redacted] wasn't pulling his weight" if she was still able to control her emotions and actions at the time of the incident. (R. at 57). She replied, "I was able to control it. It was just that night." (R. at 57). Appellant told the court, "Because of the stress that I was feeling, [] that's the only reason why it lead me to that point." (R. at 58). Upon the military judge's further questioning about the role stress played in

precipitating the incident, defense counsel and the military judge believed the questions confused appellant. (R. at 58–60). The military judge then took a recess to watch the recording of the incident and allow appellant to confer with counsel. (R. at 60).

The recording corroborated appellant's testimony. (Pros. Ex. 2). Appellant can be heard telling [redacted] that she will shoot him with the loaded shotgun. (Pros. Ex. 2 at 0:11–0:36). [redacted] repeatedly told appellant to "stay back" and to get away from him. (Pros. Ex. 2 at 2:28–2:31, 2:46–3:05). When [redacted] told appellant that he did not know what she is going to do she responded, "Your son is going to be a fucking orphan." (Pros Ex. 2 at 3:04–3:06). While appellant never pointed the gun at [redacted] she brandished it at him several times. (Pros. Ex, 2 at 3:58–4:22, 4:53). Near the end of the recording, when appellant believed [redacted] was calling the police she asked, "You know what's going to happen now, right?" [redacted] responded, "You're going to kill me." (PE 2 6:30–6:41).

After watching the recording, the court continued the plea colloquy. (R. at 60). The court asked appellant if she was, "physically or mentally unable to control yourself on 26 January 2024, or did you let your emotions get the better of you?" (R. at 60). Appellant responded that her "emotions" led her to act as she did. (R. at 60). The court followed up by asking, "Was this a regrettable act that you wish you had done differently, or one that you absolutely could not have done

differently?" (R. at 61). Appellant answered that she regretted the incident and could have done differently. (R. at 61).

The court then went back over the elements of the crime with appellant. (R. at 62). She admitted that during the incident she threatened to kill R.S, or words to that effect, by brandishing a loaded firearm, without legal justification or excuse. (R. at 62–63). She also admitted that her actions created a reasonable apprehension of immediate bodily harm in [redacted] (R. at 63). When the military judge concluded questioning the appellant, he asked if either side believed any further inquiry was required. (R. at 63). Defense counsel answered, "Nothing from the defense, Your Honor." (R. at 67).

The court then went over possible punishment and the terms of the plea agreement with the appellant and counsel. (R. at 67–107). The court asked appellant if she was pleading guilty because she was convinced of her guilt. (R. at 107). She answered, "Yes, Your Honor." (R. at 107). The military judge then accepted the plea agreement. (R. at 107).

Next the military judge asked defense counsel if he had enough opportunity to discuss the case with the appellant. (R. at 107). He replied that he had. (R. at 107). Likewise, appellant agreed she had enough time and opportunity to fully discuss her case with defense counsel and she was satisfied with the counsel she received. (R. at 107–08). Appellant then assured the military judge that she was

voluntarily pleading guilty, that she fully understood the meaning and effect of her plea and that she wanted to plead guilty. (R. at 108–13). The military judge found her plea provident and accepted her plea of guilty. (R. at 113).

The government then successfully moved to dismiss the remaining specifications and charges. (R. at 113–14). The military judge then found appellant guilty, by exceptions and substitutions, to Specification 1 of Charge I. (R. at 114).

Standard of Review

A military judge's decision to accept a guilty plea is reviewed for an abuse of discretion, and questions of law arising from the guilty plea are reviewed de novo. *United States v. Byunggu Kim*, 83 M.J. 235, 238 (C.A.A.F. 2023).

Law

A. Military judge acceptance of a guilty plea.

"Before accepting a guilty plea, a military judge must ensure that there is a factual basis for the accused's plea." *United States v. Moratalla*, 82 M.J. 1, 3 (C.A.A.F. 2021) (citing *United States v. Care*, 18 U.S.C.M.A. 535, 541, 40 C.M.R. 247 (1969)). "A factual predicate [for a plea of guilty] is sufficiently established if 'the factual circumstances as revealed by the accused himself objectively support that plea.'" *Id.* (quoting *United States v. Faircloth*, 45 M.J. 172, 174 (C.A.A.F. 1996)).

A military judge's decision to accept a plea of guilty is reviewed for an abuse of discretion. *United States v. Byunggu Kim*, 83 M.J. 235, 238 (C.A.A.F. 2023) (citing *United States v. Inabinette*, 66 M.J. 320, 322 (C.A.A.F. 2008)). Under this standard, the court "must uphold a guilty plea unless there is a substantial basis in law and fact for questioning the plea." *United States v. Hiser*, 82 M.J. 60, 64 (C.A.A.F. 2022) (citing *United States v. Prater*, 32 M.J. 433, 436 (C.M.A. 1991)). Under the "substantial basis" test, the court must ask "whether there is something in the record of trial, with regard to the factual basis or the law, that would raise a substantial question regarding appellant's guilty plea." *Moratalla*, 82 M.J. at 3–4 (citing *Inabinette*, 66 M.J. at 322). "If an accused sets up matter[s] inconsistent with the plea at any time during the proceeding, the military judge must either resolve the apparent inconsistency or reject the plea." *Id.* at 4 (internal quotations and citations omitted). However, "a 'mere possibility' of conflict" is not enough, and we "giv[e] broad discretion to military judges in accepting [guilty] pleas . . . because [we recognize that] facts are by definition undeveloped in such cases." *Moratella*, 82 M.J. at 4.

Once a military judge has accepted a plea as provident and has entered findings based on it, appellate courts will not reverse that finding and reject the plea unless it finds a substantial conflict between the plea and the accused's

statements or other evidence on the record. *Id.* at 309 (citing *United States v. Garcia*, 44 M.J. 496, 498 (C.A.A.F. 1996)).

B. Automatism.

The law recognizes the affirmative defense of automatism as, "[a]ction or conduct occurring without will, purpose, or reasoned intention," "behavior carried out in a state of unconsciousness or mental disassociation without full awareness," and "[t]he physical and mental state of a person, who though capable of action, is not conscious of his or her actions." *United States v. Aguirre*, 86 M.J. 43, 53 (C.A.A.F. 2025) (quoting *United States v. Torres*, 74 M.J. 154, 156 n.3 (C.A.A.F. 2015)). An affirmative defense constitutes a matter "inconsistent with the plea" of guilty. *E.g.*, *United States v. Hayes*, 70 M.J. 454, 458 (C.A.A.F. 2012). Thus, should an appellant establish facts that raise a possible defense, the military judge must inquire further and resolve the matters inconsistent with the plea, or reject the plea. *United States v. Phillippe*, 63 M.J. 307, 310-11 (C.A.A.F. 2006). The defense of automatism may negate the actus reus of a criminal offense. *Torres*, 74 M.J. at 157–58.

Argument

A. Appellant's responses did not raise the defense of automatism.

Appellant's responses during the *Care* inquiry show that she acted voluntarily with full awareness and control over her actions. Appellant first argues

that the military judge abused his discretion by not inquiring as to whether appellant could avail herself of the affirmative defense of automatism. (Appellant's Br. 6–7). However, appellant's responses to the military judge resolved any concern that she lacked mental responsibility or that a defense of automatism could even apply.

Here, neither the evidence in the record, nor appellant's testimony during the plea colloquy supported the possible defense of automatism—that is, that appellant's threatening to shoot [redacted] with a shotgun was an unconscious or involuntary act. First, appellant stipulated that she "voluntarily chose to engage in the wrongful conduct" of assaulting [redacted], as described in the stipulation of fact. (Pros. Ex. 1, p. 3). Second, although appellant seemingly indicated at one point in the plea colloquy that she committed the crime due to "stress" or "emotions," she ultimately testified that she could have acted differently if she had chosen to do so. (R. at 57–58, 60–61). Finally, the court watched the recording of the crime, where it is clear that appellant's actions were conscious and wholly voluntary at all times. (R. at 60; Pros. Ex. 2). Appellant's own testimony, the video of the crime, and the stipulation of fact do not contradict each other, and there is not substantial conflict to the providence of her plea. In light of these facts, the court did not abuse its discretion by failing to inquire whether appellant could avail herself of the affirmative defense of automatism before accepting her plea of guilty.

B. [redacted] reasonably feared immediate bodily harm.

Appellant next argues that the military judge abused his discretion by accepting her plea because "there is a substantial basis in law and fact to question the providence of [her] plea, particularly with regard to whether [redacted] at any point anticipated an unwanted touching." (Appellant's Br. 10). The military judge did not abuse his discretion in accepting appellant's guilty plea because the record contains ample evidence that her words and actions created in the mind of [redacted] a reasonable apprehension of receiving immediate bodily harm.

In *United States v. Milton,* 46 M.J. 317, 319 (C.A.A.F. 1997), Milton was convicted, pursuant to his plea of guilty, of a charge and specification of simple, offer-type assault. *Id.* at 317–18. The victim had been making sexual remarks about Milton's wife. *Id.* at 318. While discussing the matter with the victim, Milton lifted his shirt and revealed an automatic pistol tucked into his pants. *Id.* Milton told the victim, "I want you to stay away from my wife or me and you are going to have serious problems[.]" *Id.* During the providence inquiry, Milton testified that he revealed the gun to the victim, "Because I wanted to get my point across to [the victim] that I [was not] joking about him messing with my wife[,]" and appellant wanted to scare him. *Id.*

In its decision, the Court of Appeals for the Armed Forces noted that Milton admitted that his actions would cause another to reasonably believe that force

would be immediately applied. *Id.* at 319. The court also found that Milton had the present ability and intention to put the victim in fear and "the fact that the weapon was not pointed directly at [him did] not preclude the existence of an offer-type assault." *Id.* "In this case, the circumstances surrounding appellant's threatening words, coupled with a showing of a loaded weapon, satisfied the requirement that appellant maintain an apparent present intention and ability to inflict an injury." *Id.* Based on these facts the court held that there was no substantial basis in law or fact to find Milton's plea improvident. *Id.* Appellant's case is similar to *Milton*.

Here, during the providence inquiry the military judge explained to the appellant that she was charged with committing domestic violence through the violent offense of simple assault with a loaded firearm. (R. at 37–38). The military judge went on to describe the elements of simple assault for appellant. (R. at 37–38). The military judge further explained that to be guilty of assault appellant, "must have made a demonstration of force or violence, either by an intentional or by a culpably negligent act or omission, which created in the mind of [redacted] a reasonable apprehension of receiving immediate bodily harm." (R. at 38); MCM, pt. IV, ¶ 128c(2)(b)(ii). Appellant told the military judge that she understood the elements and definitions of the crime, and that they accurately and correctly described her actions. (R. at 39).

Appellant then testified that, in an effort to scare [redacted] she threatened to shoot him with the loaded shotgun she and told him she would make his son an orphan. (R. at 40–41, 44–45, 47, 49–51, 53, 61–62). Appellant testified that [redacted] took her threat seriously and she could see that he was scared. (R. at 45–46, 54–55). She admitted to the military judge that any reasonable person in [redacted] situation would be in fear. (R. at 55). And, indeed, appellant stipulated that [redacted] was scared she was going to shoot him and that he remained in the home out of fear for his son's safety. (Pros. Ex. 1, p. 2).

The mere fact that [redacted]. made a recording of the incident shows fear as he felt the need to capture the incident as evidence. He also began recording in secret without the camera oriented on appellant so as not to incite her. (Pros. Ex. 2). Finally, the military judge was able to review the recording of appellant committing the crime. (R. at 60; Pros. Ex. 2). In light of these facts, this court is entitled to draw the reasonable inference that appellant's conduct created in the mind of [redacted] a reasonable apprehension of imminent bodily harm. *See e.g.*, *United States v. Marbury*, 56 M.J. 12, 18 (C.A.A.F. 2001).

Although appellant argues that *United States v. Youngblood*, 30 M.J. 844, 844, 848 (N-M.C.M.R. 1990) is similar to her case, that case is readily distinguishable. In *Youngblood*, the appellate court set aside and dismissed a finding of guilt to a charge and specification of simple assault with a dangerous

weapon resulting from a contested trial where the members convicted by exceptions and substitutions. The court's analysis revolved around the meaning and effect of the exceptions and substitutions, which is a completely different analysis from whether a military judge abused his discretion in accepting a guilty plea. *Id.* at 844, 847–48.

The plea inquiry, as detailed above, established an adequate basis in law and fact for the military judge to accept appellant's guilty plea. The military judge therefore did not abuse his discretion when he accepted the plea and there is no substantial basis for this court to reverse the finding of guilty. This Court should find that appellant's plea of guilty was provident.

Conclusion

WHEREFORE, the government respectfully requests This Honorable Court affirm the findings and sentence.

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CERTIFICATE OF SERVICE

UNITED STATES v. SARAH H. TORNTON, ARMY 20250210

I certify that a copy of the foregoing was sent via electronic submission to the Defense Appellate Division at [redacted] on the 23rd day of June, 2026.

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