

**IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS**

**SSG ANDERSON WALLACE JR.**

**Petitioner**

**V.**

**U.S. OF AMERICA**

**Respondent**

**MOTION FOR RECONSIDERATION**

**WITH REQUEST FOR**

**EXPLANATION OF WRIT DENIAL**

**ARMY MISC NO. 20250089**

**Tried at Fort Jackson, S.C.**

**On 11 and 12 Oct. 1989 before**

**A General Court-Martial**

**Appointed by MG John A. Renner**

**Military Judge Col Gustave Jacobs**

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

COMES NOW the Petitioner, SSG ANDERSON WALLACE JR., pro se, and respectfully moves this Honorable Court for reconsideration of its denial of Petitioner's Writ of Coram Nobis, and specifically requests this Court provide its legal reasoning for the denial. This motion is based on binding case law

establishing this Court's statutory obligation to address fundamental jurisdictional defects and provide meaningful appellate review.

## **BASIS FOR MOTION**

1. On 4 April 2025, this Honorable Court denied Petitioner's Writ of Coram Nobis without providing any explanation or reasoning for the denial.
2. Petitioner's writ presented a fundamental jurisdictional defect apparent on the face of the record: the convening order (dated July 24, 1989) predated the preferral of charges (dated August 1, 1989). This chronological impossibility creates a structural defect that renders the entire court-martial proceeding void ab initio.
3. In *United States v. Claxton*, 32 M.J. 159, 162 (C.M.A. 1991), the Court of Military Appeals (now CAAF) held that service courts of criminal appeals have a statutory obligation under Article 66(c), UCMJ, to conduct a thorough review for legal errors. This Court's denial without explanation fails to demonstrate that such a review was conducted regarding the clear jurisdictional defect identified in Petitioner's writ.
4. In *United States v. DuBay*, 17 U.S.C.M.A. 147, 37 C.M.R. 411 (1967), the Court of Military Appeals established that proper appellate review requires adequate explanation of factual and legal conclusions. This Court's summary denial without

reasoning prevents Petitioner from understanding how this Court resolved the fundamental jurisdictional question presented.

5. The Court of Appeals for the Armed Forces clearly established in *United States v. Wheelus*, 49 M.J. 283, 288 (C.A.A.F. 1998) that the Courts of Criminal Appeals have an affirmative duty to ensure that "complete, accurate, and meaningful appellate review" is provided.

6. In *Denedo v. United States*, 556 U.S. 904 (2009), the Supreme Court affirmed that military courts have jurisdiction to entertain coram nobis petitions and the responsibility to address fundamental errors that would void a conviction. This Court's summary denial fails to demonstrate consideration of this clear Supreme Court directive.

7. This Court's failure to provide any reasoning for denying relief in the face of a clear chronological impossibility constitutes a violation of its statutory duty under Article 66, UCMJ (10 U.S.C. § 866) to conduct a thorough legal review. This is particularly significant because this Court failed to identify this same jurisdictional defect during its original 1989 review of Petitioner's case.

8. As held in *Armann v. McKean*, 549 F.3d 279, 285 (3d Cir. 2008), "At its core, jurisdiction refers to the authority of a court to exercise judicial power over a particular matter." The chronological impossibility in this case directly challenges

this Court's fundamental authority to exercise judicial power over Petitioner's case in 1989.

9. In *United States v. Robbins*, 52 M.J. 455, 457 (C.A.A.F. 2000), the Court of Appeals for the Armed Forces emphasized that "a jurisdictional error is not waived by failure to object." The fundamental jurisdictional defect identified in Petitioner's writ cannot be resolved without explanation, as it goes to the very foundation of the court-martial's authority.

10. The Rules of Practice and Procedure for the United States Army Court of Criminal Appeals (A.C.C.A. R. 30.3) provide that "the Court may invite briefs on the specific issue(s) that is/are the basis for the Court's action." This Court's failure to identify any basis for its denial prevents Petitioner from addressing specific concerns the Court may have had.

11. In *Loving v. United States*, 62 M.J. 235, 240 (C.A.A.F. 2005), the Court of Appeals for the Armed Forces held that the jurisdiction of courts-martial is entirely statutory and must be perfected in accordance with applicable statutory provisions. The chronological impossibility identified in Petitioner's writ directly demonstrates that jurisdiction was never properly perfected.

12. In R.C.M. 504(d)(1), the Rules for Courts-Martial expressly state that a convening order must be issued before a court-martial can be properly convened.

The fact that the convening order in this case was dated before the charges even existed represents a fundamental violation of this basic procedural requirement.

## **PREJUDICE TO PETITIONER**

1. Without knowing this Court's legal reasoning for denying relief despite this clear jurisdictional defect, Petitioner cannot effectively exercise appellate rights or address any perceived misunderstandings in subsequent filings.

2. The U.S. Supreme Court has held that "the right to appeal would be unique among state actions if it could be withdrawn without consideration of applicable due process norms." *Evitts v. Lucey*, 469 U.S. 387, 400-01 (1985). Understanding this Court's reasoning is essential to Petitioner's due process rights in pursuing further review.

3. The Court of Appeals for the Armed Forces has consistently emphasized that meaningful appellate review requires adequate explanation of judicial reasoning. See, e.g., *United States v. Ginn*, 47 M.J. 236, 248 (C.A.A.F. 1997).

4. This Court's failure to address or explain its denial of relief for a fundamental jurisdictional defect creates the appearance that it has abdicated its statutory responsibility under Article 66, UCMJ, and contradicts the Supreme Court's

guidance in Denedo regarding the duty to address errors that would void a conviction.

5. This Court faces a fundamental jurisdictional paradox that cannot be resolved through summary denial. If the chronological impossibility in this case (convening order predating charges) rendered the court-martial void for lack of jurisdiction, then this Court's original 1989 review under Article 66 was itself conducted without proper jurisdiction, as there was no valid court-martial to review. By denying the present writ without explanation, this Court fails to address whether it had jurisdiction in 1989 to conduct the review it was statutorily obligated to perform. As held in *United States v. Hart*, 66 M.J. 273, 275 (C.A.A.F. 2008), an appellate court has an independent duty to ensure it has jurisdiction before proceeding with a case. This Court's summary denial sidesteps this fundamental jurisdictional question that strikes at the heart of this Court's own authority in this case.

6. This Court now faces not merely a legal but an ethical obligation to address this jurisdictional defect. Once explicitly informed of a defect that renders proceedings void ab initio, this Court's statutory duty under Article 66 transforms into an ethical imperative under the Code of Judicial Conduct for Army Trial and Appellate Judges. Canon 1 requires judges to "uphold the integrity and independence of the judiciary," while Canon 3 mandates they "perform the duties of judicial office

impartially and diligently." As emphasized in *United States v. Jenkins*, 60 M.J. 27, 30 (C.A.A.F. 2004), military appellate courts have a special responsibility to safeguard the integrity of the military justice system. A decision to deny relief without addressing this clear jurisdictional defect, now that it has been explicitly identified, would constitute a knowing abdication of both statutory and ethical obligations. It would represent a deliberate choice to perpetuate a void judicial action after being informed of its invalidity, directly contravening this Court's sworn duty to uphold the law and the Constitution.

7. Furthermore, the doctrine of judicial estoppel precludes this Court from implicitly maintaining contradictory positions regarding jurisdiction. As held in *New Hampshire v. Maine*, 532 U.S. 742, 749-50 (2001), courts may not "deliberately change positions according to the exigencies of the moment." A summary denial of this writ would create an untenable contradiction: this Court would implicitly claim jurisdiction existed despite the chronological impossibility, yet provide no explanation for how a convening order could legally authorize a court-martial for charges that did not yet exist. Beyond the immediate case, this Court's handling of such a fundamental defect has significant implications for public confidence in military justice and creates concerning precedent. As noted in *United States v. Ortiz*, 138 S. Ct. 2165, 2175 (2018), military courts derive their legitimacy from "adherence to the rule of law." The straightforward nature of this

chronological defect—readily understandable to any observer—makes its continued non-acknowledgment particularly damaging to institutional credibility. This Court now has before it not merely a procedural question but a fundamental test of the military justice system's commitment to correct clear jurisdictional errors, even when discovered decades later.

8. Petitioner respectfully requests this Court take judicial notice of the dates on the key documents in this case pursuant to Military Rule of Evidence (M.R.E.) 201.

Specifically, Petitioner requests judicial notice that: (1) the convening order is dated July 24, 1989; (2) the preferral of charges is dated August 1, 1989; and (3) the chronological relationship between these dates creates an impossibility where the convening order predates the charges it purports to refer to a court-martial.

These facts meet the standard for judicial notice under M.R.E. 201(b) as they are "not subject to reasonable dispute" because they are "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." These official military documents and their dates constitute adjudicative facts that this Court is permitted to judicially notice. As held in *United States v. Williams*, 17 M.J. 207, 214 (C.M.A. 1984), a court may take judicial notice of official records in matters of public record. Once these dates are judicially noticed, the jurisdictional defect becomes an established fact that cannot be reasonably disputed or disregarded.



9. Petitioner notes that despite multiple requests over the past 35 years, he has been unable to obtain his medical and service records from military authorities. This persistent inability to access his own basic documentation represents an additional barrier to justice. However, this should not prevent this Court from taking judicial notice of the dates that appear on the face of the convening order and preferral documents, which remain in this Court's possession as part of the official record of trial. The Court itself has direct access to the original documents containing these dates, making judicial notice particularly appropriate in these circumstances. The Court's own record of trial contains these documents with their respective dates, eliminating any reasonable question about their authenticity or the accuracy of the dates cited. As held in *United States v. Lovasco*, 431 U.S. 783, 790 (1977), delayed access to justice raises due process concerns, particularly when the delay is attributable to the government's actions or inactions. The Court is uniquely positioned to take judicial notice of these dates from its own records, independent of Petitioner's ability to provide certified copies.

10. Petitioner notes that this Court recently demonstrated its capacity and willingness to provide substantive explanation when addressing writs from decades-old cases. In *Major Ronald E. Alley v. United States*, ARMY MISC 20240411 (A.C.C.A. Feb. 6, 2025), this Court issued a four-page opinion explaining its denial of a writ concerning a court-martial from nearly 70 years ago.

Particularly significant is that at least two of the judges who decided that case (Judges Pond, Morris, and Parker) are the same judges assigned to the present case. These judges provided detailed reasoning for why the petitioner in that case failed to meet the "stringent requirements threshold" for his requested relief. The stark contrast between the Court's treatment of that 70-year-old case and its summary denial without explanation in the present case—which presents a clear jurisdictional defect apparent on the face of the record—raises serious questions about disparate treatment. If the same judges can provide four pages of reasoned analysis explaining why a 70-year-old technical error did not warrant relief, fundamental fairness and judicial consistency demand at least equivalent explanation for denying relief from a chronological impossibility that renders an entire proceeding void ab initio. This disparate treatment of cases by the same judicial panel cannot be reconciled with basic principles of judicial consistency.

## **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

1. Reconsider its denial of Petitioner's Writ of Coram Nobis in light of the fundamental jurisdictional defect presented and the cited legal authority establishing this Court's duty to address such defects; or

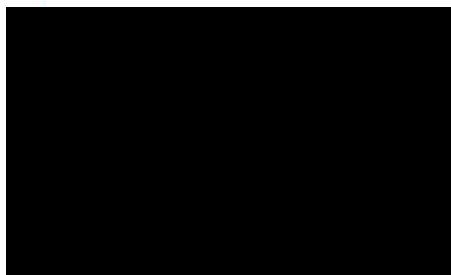
2. In the alternative, provide a written explanation of the legal reasoning for denying relief despite the chronological impossibility created by the convening order predating the preferral of charges, consistent with this Court's statutory obligations under Article 66, UCMJ, and binding case law requiring meaningful appellate review.

Respectfully submitted,



SSG ANDERSON WILLACE JR.

Pro Se



PANEL NO. 4

GRANTED \_\_\_\_\_

DENIED WV

DATE 30 April 2025

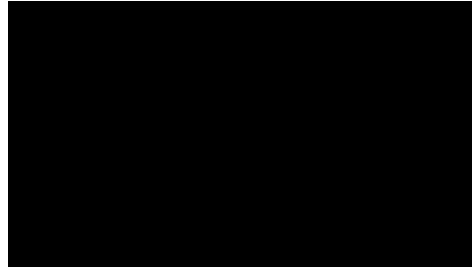
## CERTIFICATE OF SERVICE

I certify that a copy of the forgoing was sent via electronic submission to Government Appellate Division at [usarmy.pentagon.hqda-otjag.mbx.gad-accaservice@army.mil](mailto:usarmy.pentagon.hqda-otjag.mbx.gad-accaservice@army.mil) on the 7<sup>th</sup> day of March 2025.



ANDERSON WALLACE JR.

Pro Se



## **APPENDIX**

**EXHIBIT-1**    General Court-Martial Order No. 1 dated 24 July 1989

**EXHIBIT-2**    Preferral of Charges dated 1 Aug 1989

Court-Martial Convening Order Number 13 was the last of the series for 1988.

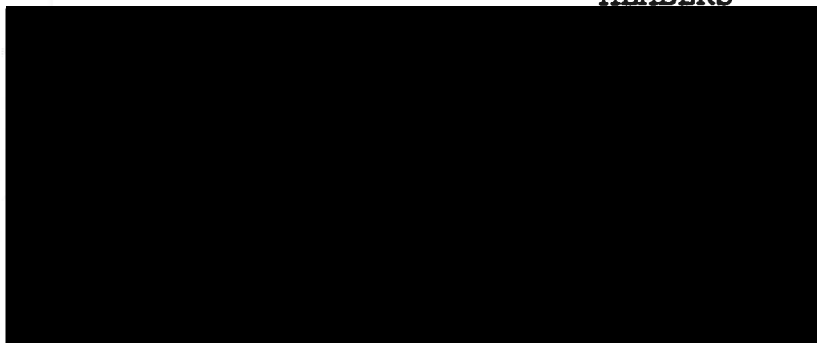
DEPARTMENT OF THE ARMY  
Headquarters, United States Army Training Center and Fort Jackson  
Fort Jackson, South Carolina 29207-5045

COURT-MARTIAL CONVENING ORDER  
NUMBER 1

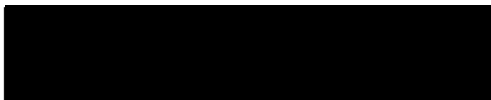
24 July 1989

Pursuant to the authority contained in paragraph 1, General Order Number 3, Department of the Army, dated 19 January 1981, a general court-martial is hereby convened. It may proceed at this headquarters to try such persons as may be properly brought before it. The court will be constituted as follows:

MEMBERS



BY COMMAND OF MAJOR GENERAL KRAUSZ:



DISTRIBUTION:  
1-Ea Indiv Conc  
1-Ea Record of Trial  
1-HQ, FJ, ATTN: ATZJ-AGA  
1-Record Set  
1-Reference Set

J. JOSEPH SAYE  
MAJ, JA  
Chief, Criminal Law

# CHARGE SHEET

1. NAME OF ACCUSED (Last, First, MI)  
WALLACE, Anderson Jr.

## I. PERSONAL DATA

5. UNIT OR ORGANIZATION

Headquarters and Headquarters Company, 2/13th Infantry,  
Fort Jackson, South Carolina 29207

3. GRADE OR RANK  
SSG

4. PAY GRADE  
E-6

6. CURRENT SERVICE

a. INITIAL DATE  
7 Oct 88

b. TERM  
5 yrs

7. PAY PER MONTH

a. BASIC

b. SEA/FOREIGN DUTY

c. TOTAL

\$1343.40

none

\$1343.40

3. NATURE OF RESTRAINT OF ACCUSED

none

9. DATE(S) IMPOSED

n/a

10. CHARGE:

## II. CHARGES AND SPECIFICATIONS

VIOLATION OF THE UCMJ, ARTICLE

SPECIFICATION 1: In that Staff Sergeant Anderson Wallace Jr., US Army, Headquarters and Headquarters Company, 2nd Battalion, 13th Infantry Regiment, 1st Basic Training Brigade, Fort Jackson, South Carolina, on active duty, did, at an unknown location, between approximately 9 June 1989 and 12 June 1989, wrongfully use cocaine, a Schedule II controlled substance.

Specification 2: In that Staff Sergeant Anderson Wallace Jr., US Army, Headquarters and Headquarters Company, 2nd Battalion, 13th Infantry Regiment, 1st Basic Training Brigade, Fort Jackson, South Carolina, on active duty, did, at Columbia, South Carolina, on various occasions between approximately 1 May 1989 and 15 June 1989, wrongfully distribute some amount of cocaine, a Schedule II controlled substance, to Specialist Jeffery M. Simms.

Specification 3: In that Staff Sergeant Anderson Wallace Jr., US Army, Headquarters and Headquarters Company, 2nd Battalion, 13th Infantry Regiment, 1st Basic Training Brigade, Fort Jackson, South Carolina, on active duty, did, at Columbia, South Carolina, on various occasions between approximately 1 March 1989 and 31 May 1989, wrongfully distribute some amount of cocaine, a Schedule II controlled substance, to Ms. Gwendolyn Wilson.

NAME OF ACCUSER (Last, First, MI)

## III. PREFERRAL

HEA  
SIGN

GRADE

O-3

c. ORGANIZATION OF ACCUSER

HHC, 2/13th Infantry Regiment

e. DATE

1 Aug 89

AFFIDAVIT: Before me, the undersigned, authorized by law to administer oaths in cases of this character, personally appeared the above named accuser this 1st day of August, 19 89, and signed the foregoing charges and specifications under oath that he/she is a person subject to the Uniform Code of Military Justice and that he/she either has personal knowledge of has investigated the matters set forth therein and that the same are true to the best of his/her knowledge and belief.

LEONARD SHEARER

Typed Name of Officer

HHD, 1st BCT Brigade, Ft Jackson, SC

Organization of Officer

O-3

Adjutant

Official Capacity to Administer Oath  
(See R.C.M. 307(b)—must be commissioned officer)

12.

On 1 August, 1989, the accused was informed of the charges against him/~~her~~/and of the name(s) of the accuser(s) known to me (See R.C.M. 308 (a)). (See R.C.M. 308 if notification cannot be made.)

KRISTEN WHEATON

Typed Name of Immediate Commander

HHC, 2/13th Infantry, Ft Jackson, SC

Organization of Immediate Commander

0-3

## IV. RECEIPT BY SUMMARY COURT-MARTIAL CONVENING AUTHORITY

13.

The sworn charges were received at 1330 hours, 1 August 19 89 at Headquarters, 1st Basic

Designation of Command or

Training Brigade

Officer Exercising Summary Court-Martial Jurisdiction (See R.C.M. 403)

FOR THE 1 COMMANDER

LEONARD SHEARER

Typed Name of Officer

Adjutant

Official Capacity of Officer Signing

0-3

Grade

Signature

## V. REFERRAL SERVICE OF CHARGES

14a. DESIGNATION OF COMMAND OF CONVENING AUTHORITY

DA, HQ, USATC&amp;FJ, Ft Jackson, SC

b. PLACE

Ft Jackson, South Carolina

c. DATE

1 September 1989

Referred for trial to the general court-martial convened by Court-Martial Convening Order Number 1,  
this headquarters.

dated 24 July 19 89, subject to the following instructions: 2 - None

By COMMAND

Command or Order

of MAJOR GENERAL RENNER:

CRAIG E. TELLER

Typed Name of Officer

Chief, Administrative Law

Official Capacity of Officer Signing

Captain

Signature

15.

On 1 Sept, 19 89, I (caused to be) served a copy hereof on (each of) the above named accused.

J. JOSEPH SAYE

Typed Name of Trial Counsel

Major

Grade or Rank of Trial Counsel

FOOTNOTES: 1 - When an appropriate commander signs personally, inapplicable words are stricken.  
2 - See R.C.M. 601(e) concerning instructions. If none, so state.



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**To:** [Anderson Wallace](#)  
**Cc:** [USARMY Pentagon HQDA OTJAG Mailbox GAD ACCAservice](#); [USARMY Pentagon HQDA OTJAG Mailbox DAD ACCAservice](#); [USARMY Pentagon HQDA OTJAG Mailbox TJ Service](#)  
**Subject:** RE: WALLACE-20250089-Motion for Reconsideration-(250407)  
**Date:** Tuesday, April 8, 2025 12:05:00 PM  
**Attachments:** [MOTION FOR RECONSIDERATION WITH REQUEST FOR EXPLANATION OF WRIT DENIAL.pdf](#)

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Your pleading is in compliance with the Court's Rules of Practice and Procedure, and the pleading is accepted. Please note that the naming convention of your email was incorrect, it should reflect the correct pleading name. It was corrected by the court.

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