UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before the Court sitting *En Banc*[1]
Appellate Military Judges

UNITED STATES, Appellee
v.
Sergeant First Class MICHAEL S. MALONE, JR.
United States Army, Appellant

ARMY 20230151

Headquarters, 1st Armored Division and Fort Bliss
Jessica R. Conn, Military Judge
Colonel Andrew D. Flor, Staff Judge Advocate

For Appellant: Major Robert D. Luyties, JA (argued); Lieutenant Colonel Autumn R. Porter, JA; Captain Matthew S. Fields, JA; Major Cody Cheek, JA (on brief); Colonel Philip M. Staten, JA; Lieutenant Colonel Autumn R. Porter, JA; Major Mitchell D. Herniak, JA; Major Cody Cheek, JA (on reply brief); Colonel Philip M. Staten, JA; Lieutenant Colonel Autumn R. Porter, JA; Captain Amber L. Bunch, JA; Major Robert D. Luyties, JA (on supplemental brief and supplemental reply brief).

For Appellee: Captain Vy T. Nguyen, JA (argued); Colonel Christopher B. Burgess, JA; Lieutenant Colonel Jaqueline D. DeGaine, JA; Major Chase C. Cleveland, JA; Captain Vy T. Nguyen, JA (on brief); Colonel Richard E. Gorini, JA; Major Lisa Limb, JA; Captain Vy T. Nguyen, JA (on supplemental brief).

16 October 2026

DECISION ON REMAND ON RECONSIDERATION

Per Curiam:

Appellant's case was initially decided by a panel of this court on 23 May 2024. *See generally United States v. Malone*, ARMY 20230151, 2024 CCA LEXIS 217 (Army Ct. Crim. App. 23 May 2024) (mem. op). That decision was subsequently reversed by this court sitting en banc. *See generally United States v. Malone*, 85 M.J. 573 (Army Ct. Crim. App. 2025). The acting Judge Advocate General of the Army then certified appellant's case to our superior court, *United*

[1] Chief Judge FLOR, Judge BURGESS, and Judge WILLIAMS did not participate in the decision.

States v. Malone, 86 M.J. 297, 299 (C.A.A.F. 2026), which reversed this court's en banc decision and returned appellant's case to us to "complete [our] review." *Id.* at 305.

Upon its return, a panel of this court affirmed the findings and sentence in appellant's case. *United States v. Malone*, ARMY 20230151, 2026 CCA LEXIS 186, at *2 (Army Ct. Crim. App. 10 Apr. 2026). Subsequently, appellant requested en banc reconsideration of his remanded case. That suggestion was adopted.

On consideration of the entire record, we hold the findings of guilty and the sentence, as entered in the Judgment of the Court, correct in law and fact.[2] Accordingly, the findings and sentence are AFFIRMED.

FOR THE COURT:

[redacted]

JAMES W. HERRING, JR.
Clerk of Court

[2] We have given full and fair consideration to the allegations personally raised by appellant pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982) determine they warrant neither discussion nor relief.