

No. 25-1148

In the Supreme Court of the United States

PARKER C. MYSLOW, PETITIONER

v.

UNITED STATES OF AMERICA

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES*

BRIEF FOR THE UNITED STATES IN OPPOSITION

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QUESTION PRESENTED

Whether the Air Force Court of Criminal Appeals has authority to review an “indorsement” accompanying petitioner’s judgment and stating that his convictions triggered 18 U.S.C. 922’s prohibition on possession of firearms.

PARTIES TO THE PROCEEDING

Petitioner is Parker C. Myslow. Respondent is the United States of America.

ADDITIONAL RELATED PROCEEDINGS

General Court-Martial (Shaw Air Force Base, SC):

United States v. Myslow (Apr. 22, 2024) (no docket number)

United States Air Force Court of Criminal Appeals:

United States v. Myslow, No. ACM 40668 (Oct. 10, 2025)

United States Court of Appeals for the Armed Forces:

United States v. Myslow, No. 26-0050 (Jan. 6, 2026)

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OPINIONS BELOW

The order of the Court of Appeals for the Armed Forces (Pet. App. 1a) is available at 2026 WL 374024. The opinion of the Air Force Court of Criminal Appeals (Pet. App. 2a-15a) is available at 2025 WL 2887347.

JURISDICTION

The order of the Court of Appeals for the Armed Forces denying a petition for review was entered on January 6, 2026. The petition for a writ of certiorari was filed on March 31, 2026. The jurisdiction of this Court is invoked under 28 U.S.C. 1259(3).

STATEMENT

Following his guilty plea before a military judge sitting as a general court-martial, petitioner was convicted of one specification of failing to obey a lawful general regulation by wrongfully using delta-8-tetrahydrocannabinol (THC-8), in violation of Article 92 of the Uniform Code

of Military Justice (UCMJ), 10 U.S.C. 892, and one specification of wrongfully using a Schedule I controlled substance, delta-9-tetrahydrocannabinol (THC-9), in violation of Article 112a of the UCMJ, 10 U.S.C. 912a. Pet. App. 3a, 16a-17a. Petitioner was sentenced to a dismissal from service. *Id.* at 4a, 20a. The United States Air Force Court of Criminal Appeals (AFCCA) affirmed. *Id.* at 2a-15a. The United States Court of Appeals for the Armed Forces (CAAF) denied further review. *Id.* at 1a.

1. In July 2023, petitioner arrived at Seymour Johnson Air Force Base, North Carolina, his first duty station in the United States Air Force. Pet. App. 5a. During the months that followed, petitioner repeatedly used THC-8 and THC-9, testing positive for both substances on seven occasions. *Id.* at 5a & n.2. On October 17, 2023, petitioner's commander ordered him into pretrial confinement. *Id.* at 5a. Petitioner was subsequently charged with one specification of failing to obey a lawful general regulation by wrongfully using THC-8, in violation of Article 92 of the UCMJ, 10 U.S.C. 892, and one specification of wrongfully using a Schedule I controlled substance, THC-9, in violation of Article 112a of the UCMJ, 10 U.S.C. 912a. Pet. App. 5a-6a.

Before trial, petitioner agreed to plead guilty to both charges and to accept a sentence of dismissal from the Air Force in exchange for guarantees that he would not be subject to additional confinement and that two additional charges, which were based on his possession of additional substances while in pretrial confinement, would be dismissed. Pet. App. 6a & n.3. Petitioner pleaded guilty pursuant to that agreement, and the military judge, sitting as a general court-martial, imposed the

agreed-upon sentence of dismissal. *Id.* at 6a-7a; Statement of Trial Results 1-4.

At the conclusion of petitioner’s general court-martial, the military judge signed the “Statement of Trial Results,” which by statute includes the judge’s findings, the sentence, and “such other information as the President may prescribe by regulation.” 10 U.S.C. 860(a)(1)(A)-(C). Through a delegation from the President, see Rule for Courts-Martial 1101(a)(6) (R.C.M.), the Secretary of the Air Force issued Instruction 51-201, which at the time of petitioner’s convictions directed that the Statement of Trial Results must be accompanied by an “indorsement” stating whether the conviction requires indexing for various collateral purposes, such as whether the conviction triggers DNA-processing requirements, sex-offender registration notification, or a firearm-possession prohibition under 18 U.S.C. 922. Department of the Air Force Instruction 51-201, *Administration of Military Justice* ¶ 20.6 (Jan. 24, 2024) (Instruction 51-201); see *United States v. Johnson*, 86 M.J. 8, 10 (C.A.A.F. 2025), cert. denied, No. 25-682 (Jan. 12, 2026). Errors in the Statement of Trial Results or post-trial processing may be corrected by post-trial motion under R.C.M. 1104(b), and under the Air Force’s practice at the time of petitioner’s convictions, administrative errors in the indorsement could be corrected as provided under Instruction 51-201 ¶¶ 21.3 and 21.10.¹

¹ After the convictions at issue here, the Secretary of the Air Force ordered changes to Instruction 51-201 through a guidance memorandum that removes indorsements from court-martial documents. Department of the Air Force, *Guidance Memorandum to Department of the Air Force Instruction (DAFI) 51-201*, Administration of Military Justice 1 (Feb. 4, 2026), <https://perma.cc/F7NH-TE5R> (Guidance Memorandum). The Guidance Memoran-

The indorsement in petitioner’s case indicated, *inter alia*, that petitioner’s convictions triggered 18 U.S.C. 922’s prohibition on the possession of firearms. Statement of Trial Results 4. After a period of time allowing for post-trial motions and review by the convening authority, the military judge entered judgment. See Pet. App. 16a-21a; 10 U.S.C. 860c(a)(1). Instruction 51-201 requires the judgment to include the Statement of Trial Results along with any post-trial modifications. Instruction 51-201 ¶ 20.40; Pet. App. 26a; see R.C.M. 1111(b)(3)(F); 10 U.S.C. 860c(a)(1)(B). At the time of petitioners’ convictions, Instruction 51-201 also required an updated indorsement noting any criminal-indexing requirements. Instruction 51-201 ¶ 20.41; Pet. App. 27a. Errors in the entry of judgment may be corrected as specified in R.C.M. 1111(c) and 1112(d), Instruction 51-201 ¶ 21.8; Pet. App. 28a, and clerical errors may also be corrected under R.C.M. 1104(b)(2)(C). Here, the indorsement on the judgment stated that petitioner was subject to 18 U.S.C. 922’s firearm-possession restriction. Pet. App. 22a.

2. The AFCCA affirmed in a nonprecedential opinion. Pet. App. 2a-15a.

Among other claims, petitioner attempted to bring an as-applied challenge to 18 U.S.C. 922’s prohibition on his possession of firearms. Pet. App. 4a. He asserted that the AFCCA could review that challenge by reviewing the “indorsement” accompanying the judgment, which stated that petitioner was subject to 18 U.S.C. 922’s prohibition. Pet. App. 4a. In petitioner’s view, the AFCCA had authority to consider the issue under

dum will remain in effect for one year, unless another change or revision to the relevant parts of Instruction 51-201 occurs before that date. See *ibid*.

Article 66(d)(2), 10 U.S.C. 866(d)(2), which allows the AFCCA to “provide appropriate relief if the accused demonstrates error or excessive delay in the processing of the court-martial after the judgment was entered into the record under [10 U.S.C. 860c],” *ibid.*; see Pet. AFCCA Br. 17-19.

The AFCCA “carefully considered” the Second Amendment claim and determined that it “warrant[ed] neither discussion nor relief,” citing (*inter alia*) the CAAF’s decision in *Johnson*, 86 M.J. at 13-14. Pet. App. 4a. In *Johnson*, the CAAF had observed that “no Court of Criminal Appeals has the authority to act upon [an indorsement’s] indication” that a conviction triggers 18 U.S.C. 922’s prohibition on the possession of firearms. 86 M.J. at 9. *Johnson* explained that a firearm restriction listed on an indorsement is not part of the “findings” or “sentence” on which either the AFCCA or the CAAF has authority to act under Article 66(d)(1)(A), 10 U.S.C. 866(d)(1)(A), and Article 67(c)(1)(A), 10 U.S.C. 867(c)(1)(A). *Johnson*, 86 M.J. at 12.

Johnson also recognized that the AFCCA lacks authority to review an indorsement under Article 66(d)(2), 10 U.S.C. 866(d)(2), the provision that allows the AFCCA to “provide appropriate relief if the accused demonstrates error or excessive delay in the processing of the court-martial after the judgment was entered into the record under [10 U.S.C. 860c].” *Johnson*, 86 M.J. at 13 (citation omitted). The CAAF explained that “any information in the indorsement is part of the [entry of judgment] and cannot be an ‘error . . . in the processing of the court-martial *after the judgment was entered into the record.*’” *Ibid.* (quoting UCMJ Art. 66(d)(2), 10 U.S.C. 866(d)(2)).

The AFCCA also rejected petitioner’s other challenges. Pet. App. 7a-14a.

3. Petitioner filed a petition for review by the CAAF, in which he argued, *inter alia*, that *Johnson* was wrongly decided. Supp. to Pet. for Grant of Rev. 15 (Dec. 2, 2025). The CAAF denied the petition. Pet. App. 1a.

ARGUMENT

Petitioner contends (Pet. 7-15) that the AFCCA had statutory authority to review the indorsement to his judgment, which indicated that petitioner’s convictions triggered 18 U.S.C. 922’s prohibition on the possession of firearms. The AFCCA’s decision was correct and does not conflict with any decision of this Court or another court. This Court recently denied certiorari on that issue in a petition consolidating 13 cases for review. *Schneider v. United States*, No. 25-685 (Jan. 12, 2026).² It should do the same here.

1. Exercising delegated authority from the President, the Secretary of the Air Force required at the time of petitioner’s convictions that an entry of judgment include an indorsement that indicates certain collateral consequences of a conviction for indexing purposes, such as whether the conviction triggers DNA processing requirements, sex-offender registration notification, or a firearm-possession prohibition under 18 U.S.C. 922. See Instruction 51-201 ¶ 20.6; *United States v. Johnson*, 86 M.J. 8, 10 (C.A.A.F. 2025), cert. denied, No. 25-682 (Jan. 12, 2026). In petitioner’s case, the indorsement indicated, *inter alia*, that his convictions

² The same issue is also raised by the petition currently pending in *Zhong v. United States*, No. 25-742 (Dec. 19, 2025).

triggered 18 U.S.C. 922's firearm-possession prohibition. Pet. App. 22a.

In his direct appeal, petitioner sought to bring a constitutional challenge to Section 922's application in his circumstances. See Pet. App. 4a. But as the CAAF explained in *Johnson*, the indorsement's indication of a collateral consequence is not reviewable on direct review of a conviction. See 86 M.J. at 12. Petitioner appears to accept that the indorsement is neither a "finding[]" nor part of the "sentence" that military courts of criminal appeals may review under Article 66(d)(1)(A), 10 U.S.C. 866(d)(1)(A), and Article 67(c)(1)(A), 10 U.S.C. 867(c)(1)(A). See *Johnson*, 86 M.J. at 12. Nor may the AFCCA review the indorsement in petitioner's case under its Article 66(d)(2) authority to address "demonstrate[d] error or excessive delay in the processing of the court-martial after the judgment was entered into the record." 10 U.S.C. 866(d)(2). By order of the Secretary of the Air Force, the indorsement was entered into the record simultaneously with the judgment; accordingly, an indorsement's indication of a collateral consequence cannot be an error "after the judgment was entered into the record." See *Johnson*, 86 M.J. at 13 (quoting UCMJ Art. 66(d)(2), 10 U.S.C. 866(d)(2)).

Petitioner argues (Pet. 8-12) that the indorsement is a distinct document from the judgment and "is completed and attached to the record *after* the military judge signs the [entry of judgment]." Pet. 10. But the key question is not the separateness of the documents, but whether petitioner seeks review of a processing matter that occurred "*after* the judgment was entered *into the record*." 10 U.S.C. 866(d)(2) (emphases added). Here, as the Secretary required under Instruction 51-201, the indorsement was entered into the record and

distributed simultaneously with the judgment—it was part of the same document and bore the same date. See Pet. App. 16a, 22a; see also Instruction 51-201 ¶ 20.41; Pet. App. 27a. Contrary to petitioner’s contention (Pet. 13), that does not mean that “someone other than the military judge technically complete[d] the [entry of judgment] by signing the First Indorsement.” It simply means that the judgment was entered into the record *with* the indorsement. Pet. App. 22a.

Petitioner errs in arguing (Pet. 14-15) that the CAAF’s decision in *Johnson* treats the Air Force uniquely by “chang[ing] the timing of the [entry of judgment] for only one service, even though the same Article 60c of the UCMJ governs all the services.” Pet. 14. Even if the CAAF’s decision created any meaningful difference from the practice in cases arising from other branches of the military, any variation would stem from the fact that the Secretary of the Air Force required an indorsement accompanying the judgment in this case, while other branches have not imposed that requirement. That difference is consistent with Article 60c’s directive that a military judge enter judgment “[i]n accordance with rules prescribed by the President,” 10 U.S.C. 860c(a)(1), and the President’s decision to permit the Secretary concerned to prescribe different regulations for the entry of judgment, see R.C.M. 1111(b)(3)(F); see also 10 U.S.C. 860(a)(1)(C). Moreover, in practice, it is petitioner’s position that would cause a divergence between different branches of military service, as he does not dispute that criminal defendants in other branches of the military may not use direct review of their convictions to raise constitutional challenges to collateral consequences noted in criminal indexing. See Pet. 14; cf. *United States v. Williams*, 85 M.J. 121, 126-127

(C.A.A.F. 2024) (finding that the Army Court of Criminal Appeals lacked authority to review an indication of “collateral consequences of the accused’s conviction” included in the Statement of Trial Results).

Petitioner’s reliance (Pet. 13-14) on Judge Johnson’s concurrence in the CAAF’s decision in *Johnson* is misplaced. See 86 M.J. at 14 (Johnson, J., concurring in part and in the judgment). Judge Johnson stated that the majority’s analysis in *Johnson* had left “unclear” when the entry of judgment occurs and noted that, if the timing of post-judgment deadlines turns on when the indorsement takes place, that “could potentially set the Air Force and Space Force apart from the other services” that do not require an indorsement along with the judgment. *Id.* at 14-15. But petitioner’s argument does not concern the date of the entry of judgment for purposes of calculating deadlines. And Judge Johnson agreed that an indorsement’s indication of a firearm-possession ban under 18 U.S.C. 922 “is a collateral consequence of a conviction” that “neither the [AFCCA] nor [the CAAF] has authority to act upon.” *Johnson*, 86 M.J. at 14.

2. In all events, the issue does not warrant this Court’s review. As a practical matter, the Statement of Trial Results and entry of judgment may be corrected as provided in R.C.M. 1104, 1111(c), and 1112(d), and under the Air Force’s practice at the time of petitioner’s convictions, administrative errors in the indorsement could be corrected as provided under Instruction 51-201 ¶¶ 21.3 and 21.10. A service member may also request expungement or modification of information in criminal indexing databases. See *United States Air Force Manual 71-102*, 45-46 (July 21, 2020), <https://perma.cc/Z3UYZP3H>. And like any defendant convicted of a

crime that triggers 18 U.S.C. 922's possession prohibition, petitioner may apply for restoration of his firearm rights at an appropriate juncture under 18 U.S.C. 925(c), and may (if still aggrieved) seek to challenge the collateral consequence through a stand-alone lawsuit, see, *e.g.*, *Vincent v. Bondi*, 127 F.4th 1263, 1264 (10th Cir. 2025) (post-conviction lawsuit seeking a declaration that 18 U.S.C. 922(g)(1) violates the Second Amendment as applied to the defendant), cert. denied, No. 24-1155 (Mar. 2, 2026).

Moreover, as petitioner notes (Pet. 10 n.2), through a guidance memorandum, the Secretary of the Air Force recently ordered “immediate[] changes” to Instruction 51-201 that “implement[] the removal of first indorsements from courts-martial documents.” Guidance Memorandum 1; see p. 3 n.1, *supra*. Although the memorandum is in itself void after one year, or sooner if it is incorporated by interim change or revision of Instruction 51-201 before that date, *ibid.*, it means that the Air Force does not currently require an indorsement to accompany the judgment in the way that occurred in petitioner’s case, and it highlights the likelihood of a permanent change to that effect. That development therefore further diminishes any importance of the question presented.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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