

No. 25-1148

IN THE
Supreme Court of the United States

PARKER C. MYSLOW,
Petitioner,

v.

UNITED STATES,
Respondent.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals for the
Armed Forces**

REPLY BRIEF

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REPLY BRIEF FOR PETITIONER

The Petition asks this Court whether military courts of criminal appeals have authority under Article 66(d)(2), Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 866(d)(2), to correct an unconstitutional firearms ban annotated after entry of judgment. In Petitioner’s case—as in the case of other Airmen found guilty at courts-martial—the military judge signed an Entry of Judgment (EOJ), marking the end of trial and the beginning of the post-trial process. After the military judge signed the EOJ, a separate judge advocate signed a memorandum titled “First Indorsement.” Pet. App. 22a. Article 66(d)(2), UCMJ, specifically authorizes military courts of criminal appeals to provide appropriate relief to correct errors in the processing of courts-martial made after the EOJ.

The Government nevertheless opposes certiorari by attempting to place the First Indorsement in a status that neither becomes part of the EOJ nor comes after it. U.S. Br. 7–8. To reach such a conclusion, the Government argues, without authority, that the EOJ and the First Indorsement are simultaneously entered into the record. *Id.* The argument conflicts with the text and the scheme of the UCMJ as well as the corresponding military rules and regulations that establish that the EOJ and the First Indorsement are distinct, sequential documents.

This Court should grant certiorari to ensure the legal determinations indicated on the First Indorsement receive the full scope of appellate review allowed by the plain text of the statute. Certiorari is particularly appropriate here where the appellate review would allow the courts to correct the

unconstitutional deprivation of Petitioner's right to bear arms documented in the First Indorsement.

I. The Air Force Court of Criminal Appeals can correct errors in the First Indorsement to the EOJ because they are processing errors that occurred after judgment was entered.

The Air Force Court of Criminal Appeals (Air Force Court) has the authority to grant appropriate relief for errors in Petitioner's First Indorsement because those errors were part of "the processing of the court-martial after the judgment was entered into the record." 10 U.S.C. § 866(d)(2). The Government errs in its opposing assertion that the First Indorsement is entered into the record simultaneously with the EOJ. U.S. Br. 7–8. The paragraph in the regulation cited by the Government shows that the First Indorsement follows the EOJ. *Id.* at 8 (citing Dep't of the Air Force Instr. 51-201 ¶ 20.41); Pet. App. 27a. This paragraph states, "*After* the EoJ is signed by the military judge and returned to the servicing legal office, the [Staff Judge Advocate] signs and attaches to the EoJ a first indorsement . . ." Pet. App. 27a (emphasis added). The First Indorsement is sequenced after the EOJ, and the two are separated by the ministerial task of returning the EOJ to the servicing legal office. *Id.* These are separate, not simultaneous, steps in the processing of the court-martial, and the First Indorsement is part of "the processing of the court-martial after the judgment was entered into the record." 10 U.S.C. § 866(d)(2).

Moreover, the Government's assertion that the EOJ is not entered into the record until the staff judge advocate signs the first indorsement runs against the

plain text of Article 60c, UCMJ, 10 U.S.C. § 860c, which specifically states that “the military judge shall enter into the record of trial the judgment of the court.” The Government does not contend with the text of the statute but rather uses the passive voice to state “the indorsement was entered into the record and distributed simultaneously with the judgment.” U.S. Br. 7–8. The natural implication of the Government’s logic is that the staff judge advocate—not the military judge—enters the First Indorsement and the EOJ into the record. This reading stands in violation of the plain text of Article 60c as well as the inherent understanding that the EOJ—the final judgment of the court—belongs to the military judge, not to be altered by anything short of appellate review.

Even if the Government’s argument about the relationship between the Entry of Judgment and the First Indorsement were correct, it would create another avenue for the Air Force Court to review the firearms prohibition on the First Indorsement. The Government asserts that the Entry of Judgment includes “an updated indorsement noting any criminal indexing requirements.” U.S. Br. at 4. It then goes on to note that “[e]rrors in the entry of judgment may be corrected as specified in Rules for Courts-Martial [(R.C.M.)] 1111(c) and 1112(d).” *Id.* at 4, 9. But R.C.M. 1111(c) and 1112(d) both allow the Air Force Court to correct the Entry of Judgment, either directly, R.C.M. 1111(c)(2), or by returning it to the military judge for correction, R.C.M. 1112(d)(2). If, as the Government asserts, the First Indorsement were included in the Entry of Judgment, then the Air Force Court would have the authority to act on the First Indorsement as part of its authority to correct the Entry of Judgment.

The Government fails to appreciate this implication, maintaining that the United States Court of Appeals for the Armed Forces (CAAF) correctly decided that the First Indorsement is not reviewable. U.S. Br. 7. Petitioner maintains his argument that the correct authority for the Air Force Court to fix errors in the First Indorsement is 10 U.S.C. § 866(d)(2) because they are processing errors after judgment was entered into the record. But this alternate possibility for the Air Force Court to exercise authority over the First Indorsement underscores the flaw inherent in the Government's position.

II. This Petition is an ideal vehicle to resolve this question of statutory interpretation.

This Petition presents a ready opportunity for this Court to decide the statutory authority of the Air Force Court and the CAAF to review the firearms prohibition indicated on the First Indorsement. As a result of the First Indorsement, Petitioner is prohibited from possessing firearms. Pet. App. 40a–41a (“Reporting of persons qualifying for NICS prohibition is an immediate denial of the individual’s right to exercise his or her constitutional right to possess a firearm.”).

Petitioner’s convictions result from marijuana and synthetic marijuana use. Pet. App. 20a–21a. Disarming Petitioner for such drug use is inconsistent with the nation’s history and tradition of firearm regulation and therefore a violation of the Second Amendment. *See United States v. Daniels*, 124 F.4th 967, 978–79 (5th Cir. 2025) (citing *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 22 (2022)), *petition for cert. filed*, No. 24-1248 (U.S. June 5, 2025).

Determining the constitutionality of an action applying a statute is a core judicial role. *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177–78 (1803). However, under the CAAF’s current application of Article 66, UCMJ, the military courts cannot review the firearm prohibition resulting from Petitioner’s court-martial. *United States v. Johnson*, 86 M.J. 8, 9 (C.A.A.F. 2025). The CAAF also held in *United States v. Williams* that criminal indexing is not part of the findings and sentence that is subject to appellate review under Article 66(d)(1), UCMJ, 10 U.S.C. § 866(d)(1). 85 M.J. 121, 126 (C.A.A.F. 2024). So, absent Article 66(d)(2), UCMJ, review, the legal determinations on the First Indorsement evade review by any military appellate court.

The Government would have the First Indorsement exist in a proverbial no-man’s land where it is included in the EOJ but not a part thereof, accompanying the EOJ without coming after it. By creating this nebulous status, the approach championed by the Government would allow the legal determinations on the First Indorsement to evade judicial review for Petitioner and many other similarly situated Airmen¹ during the direct appeal of the court-martial.

The Court should grant certiorari to effectuate appellate review of this constitutional issue. Petitioner’s case squarely presents the issue of

¹ The Government noted that this Court previously denied certiorari on this issue in a petition consolidating thirteen cases for review, U.S. Br. at 6 (citing *Schneider v. United States*, No. 25-685, 223 L. Ed. 2d 519 (2026)), and the Court also denied a petition raising the same issue in an additional case, *Zhong v. United States*, 86 M.J. 264 (C.A.A.F. 2025), *cert. denied*, No. 25-742, 608 U.S. ____ (2026).

statutory review authority for this Court's resolution, highlighted by the potential constitutional violation resulting from an unchecked deprivation of the right to bear arms.

CONCLUSION

For the foregoing reasons and those previously stated in the Petition, this Court should grant the Petition.

Respectfully submitted,

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