

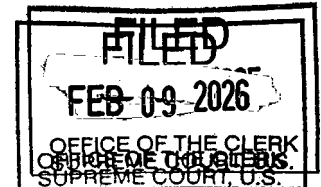
25-7205

No. \_\_\_\_\_

**ORIGINAL**

---

IN THE  
Supreme Court of the United States



\_\_\_\_\_  
HUMPHREY DANIELS III,  
*Petitioner,*

v.

UNITED STATES OF AMERICA,  
*Respondent.*

\_\_\_\_\_  
On Petition for Writ of Certiorari to the  
United States Court of Appeals for the Armed Forces

\_\_\_\_\_  
**PETITION FOR A WRIT OF CERTIORARI**  
\_\_\_\_\_

HUMPHREY DANIELS, III  
Petitioner, pro se  
216 Aragona Drive  
Fort Washington, MD 20744

(904) 864-6038

---

## QUESTIONS PRESENTED

This petition presents a single constitutional defect: the knowing concealment of a pretrial conflict of defense counsel that prevented the trial court from conducting the mandatory Sixth Amendment inquiry required by this Court's precedents. That defect raises three interrelated questions concerning Article III review, structural error, and the Sixth Amendment:

1. Whether principles of finality and Article III integrity permit a criminal judgment to stand where this Court's prior review proceeded on a record that omitted facts necessary to trigger constitutionally required judicial inquiry, thereby depriving the Court of the opportunity for meaningful review of a concealed structural Sixth Amendment conflict.

*(Finality and Article III Integrity).*

2. Whether the absence of the mandatory Sixth Amendment inquiry constitutes structural error where defense counsel's knowing concealment of a pretrial conflict prevented the trial court from conducting the required inquiry and left no record for judicial review.

*(Structural Error and Judicial Inquiry).*

3. Whether an undisclosed, pretrial structural conflict of defense counsel—knowingly concealed from both the court and the accused—violates the Sixth Amendment notwithstanding subsequent appellate review conducted on an incomplete record.

*(Sixth Amendment).*

## LIST OF PARTIES

Petitioner is Humphrey Daniels III. Petitioner was the accused at trial and the appellant in the military appellate proceedings below.

The Respondent is the United States of America.

## RELATED CASES

- *United States v. Daniels*, No. ACM 39407  
(U.S. Air Force Court of Criminal Appeals. Opinion entered February 25, 2025.)
- *United States v. Daniels*, No. 25-0184/AF.  
(U.S. Court of Appeals for the Armed Forces. Order entered September 16, 2025.)
- *United States v. Briggs, Collins, and Daniels*, 592 U.S. 371 (2020).  
(Decided December 10, 2020.)

**TABLE OF CONTENTS**

	<b>Page</b>
QUESTIONS PRESENTED .....	i
LIST OF PARTIES .....	ii
RELATED CASES .....	ii
TABLE OF CONTENTS .....	iii
TABLE OF AUTHORITIES.....	iv
OPINIONS BELOW .....	1
JURISDICTION .....	1
CONSTITUTIONAL, STATUTORY, AND RULE PROVISIONS INVOLVED.....	2
STATEMENT OF THE CASE.....	3
REASONS FOR GRANTING THE PETITION .....	5
A. This Case Presents a Clean and Unresolved Institutional Question .....	5
B. The Petition Presents an Unadjudicated Structural Sixth Amendment Issue .....	6
C. No Court Has Ever Reviewed the Structural Conflict on the Merits.....	7
D. A Grant–Vacate–Remand Is the Narrowest and Most Appropriate Remedy.....	8
CONCLUSION .....	9
APPENDIX (with an Index to Appendices: Apps. A through H).....	10

## TABLE OF AUTHORITIES

<b>Cases</b>	<b>Page</b>
<i>Cuyler v. Sullivan</i> , 446 U.S. 335 (1980) .....	6, 7
<i>Denedo v. United States</i> , 556 U.S. 904 (2009).....	6
<i>Hazel-Atlas Glass Co. v. Hartford-Empire Co.</i> , 322 U.S. 238 (1944).....	8
<i>Holloway v. Arkansas</i> , 435 U.S. 475 (1978) .....	6, 7
<i>Mickens v. Taylor</i> , 535 U.S. 162 (2002) .....	5-7, 9
<i>United States v. Briggs</i> , 592 U.S. 371 (2020) .....	3, 5
 <b>Statutes</b>	
10 U.S.C. § 827 (Article 27, UCMJ – defense counsel appointment and qualification).....	3
10 U.S.C. § 842 (Article 42, UCMJ – oaths).....	3
28 U.S.C. § 1259(2) (jurisdiction over decisions of the U.S. Court of Appeals for the Armed Forces in cases certified by the Judge Advocate General).....	1, 2
28 U.S.C. § 1259(3) (jurisdiction over decisions of the U.S. Court of Appeals for the Armed Forces in cases where that court has granted a petition for review) .....	1, 2
 <b>Constitutional Provisions</b>	
U.S. Const. amend. V (Fifth Amendment) .....	2, 8
U.S. Const. amend. VI (Sixth Amendment).....	2, 3, 5-9
 <b>Rules</b>	
Manual for Courts-Martial, United States, R.C.M. 901(d) (2016 ed.) .....	2, 3, 6

## **PETITION FOR A WRIT OF CERTIORARI**

Petitioner, Humphrey Daniels III, petitions for a writ of certiorari to review the order of the United States Court of Appeals for the Armed Forces entered on September 16, 2025.

### **OPINIONS BELOW**

The order of the United States Court of Appeals for the Armed Forces denying the petition for reconsideration (Sept. 16, 2025) is reproduced at Appendix A.

The order of the United States Court of Appeals for the Armed Forces denying the petition for grant of review (Aug. 11, 2025) is reproduced at Appendix B.

The opinion of the United States Air Force Court of Criminal Appeals (Feb. 25, 2025) is reproduced at Appendix C.

### **JURISDICTION**

This Court has jurisdiction under 28 U.S.C. §§ 1259(2) and (3). The United States Court of Appeals for the Armed Forces (CAAF) previously exercised jurisdiction over this case via certification by the Judge Advocate General (2019) and by previously granting a petition for review (2023).

The decision sought to be reviewed is the September 16, 2025, order of the United States Court of Appeals for the Armed Forces denying reconsideration.

On November 19, 2025, the Chief Justice granted an extension of time to file this petition to and including February 13, 2026. Petitioner timely submitted a petition for a writ of certiorari on February 8, 2026, within the prescribed period. The Clerk returned that submission on February 17, 2026 for non-substantive formatting deficiencies and granted time to cure. This corrected petition is submitted within the time permitted.<sup>1</sup>

---

<sup>1</sup> This filing is the corrected submission following a return for formatting deficiencies.

## **CONSTITUTIONAL, STATUTORY, AND RULE PROVISIONS INVOLVED**

The constitutional, statutory, and rule provisions involved here include the following.

### **U.S. Const. amend. VI**

*“In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense.”*

### **U.S. Const. amend. V**

*“No person shall . . . be deprived of life, liberty, or property, without due process of law.”*

### **28 U.S.C. § 1259(2)**

*“Decisions of the United States Court of Appeals for the Armed Forces may be reviewed by the Supreme Court by writ of certiorari in the following cases: . . . (2) Cases certified to the Court of Appeals for the Armed Forces by the Judge Advocate General under section 867(a)(2) of Title 10.”*

### **28 U.S.C. § 1259(3)**

*“Decisions of the United States Court of Appeals for the Armed Forces may be reviewed by the Supreme Court by writ of certiorari in . . . [c]ases in which the Court of Appeals for the Armed Forces has granted a petition for review.*

### **Rule for Courts-Martial (R.C.M.) 901(d)**

*“The military judge shall inquire into any matter which may tend to disqualify . . . counsel.”*

### STATEMENT OF THE CASE (CONDENSED)

Petitioner was tried by court-martial beginning on June 5, 2017. His case has remained in direct appellate review for nearly nine years, reaching this Court previously in 2020. At every stage of that review, the record did not disclose a pretrial conflict of defense counsel that would have required mandatory judicial inquiry under the Sixth Amendment.

At the outset of trial, defense counsel was required to state her qualifications and status on the record. Counsel affirmatively represented to the military judge that she was certified under Articles 27 and 42 of the Uniform Code of Military Justice and had engaged in no act tending to disqualify her from representation. (App. F-3 at Apps. 25, 29-30). No disclosure of any conflict was made, and the military judge therefore conducted no inquiry under R.C.M. 901(d). (App. F-3 at App. 30).

At that time, trial defense counsel had already accepted an assignment to the Air Force Legal Operations Agency, Government Trial and Appellate Operations Division; formal Permanent Change of Station orders were issued on May 19, 2017. (App. F-1 at App. 21-22; App. F-2 at App. 23-24). That fact was not disclosed to the trial court or to Petitioner. As a result, no judicial inquiry occurred, no waiver was sought or obtained, and no factual record concerning the issue was created.

The case thus proceeded through trial and multiple rounds of appellate review—including this Court's prior review—on a record silent as to whether a pretrial structural conflict existed or required inquiry. After trial—when defense counsel reported for duty in the Government Trial and Appellate Operations Division—counsel stated during a late-2017 client-attorney phone call that she had been walled off from the case and warned Petitioner “to be careful when calling.” (App. F-4 at App. 32). That post-trial administrative measure did not cure the absence of pretrial judicial inquiry or create a record capable of review. This absence persisted throughout subsequent proceedings and was never addressed through any

form of judicial inquiry at any stage of review.<sup>2</sup>

Consequently, years of appellate review proceeded on a record that did not disclose the pretrial conflict—a posture that persists despite the discovery of documentary materials establishing that the conflict existed before trial. (Apps. F-1 to F-4 at Apps. 21-32).

After discovering this evidence in August 2025, Petitioner timely filed a pro se petition for reconsideration in the United States Court of Appeals for the Armed Forces (CAAF), advising that the prior denial of review rested on a materially incomplete appellate record and raising a Sixth Amendment claim. That claim invoked this Court's conflict-of-interest framework, yet no court—including the CAAF—applied that framework on a complete factual record. Petitioner contemporaneously moved under CAAF Rule 30A to attach exhibits and to supplement and verify the record.<sup>3</sup> (Apps. D-E at Apps. 14-19).

The court granted leave to file the petition and accompanying motions, but denied all motions to attach exhibits or to supplement or verify the record, and then denied reconsideration on *that* record, which did not include the newly discovered materials. (App. A at Apps. 1-2). Accordingly, no court has ever exercised judicial review of petitioner's Sixth Amendment conflict claim under the governing framework on a complete factual record.

A condensed timeline of these events appears in the Appendix. (App. G at App. 35).

---

<sup>2</sup> Under Article 6, UCMJ (10 U.S.C. § 806), assignments for Judge Advocates are approved by the Judge Advocate General. Once accepted, official orders are issued and transmitted to administrative sections of both the gaining and losing units for processing within the Air Force personnel system, yet no disclosure of any conflict was made to the court.

<sup>3</sup> *Appendix F* contains materials submitted to the United States Court of Appeals for the Armed Forces (CAAF) in connection with petitioner's motions to supplement and verify the record. These materials are included solely to *illustrate procedural posture*, not for merits adjudication.

## REASONS FOR GRANTING THE PETITION

### A. This Case Presents a Clean and Unresolved Institutional Question

This case presents an unusual but clean procedural posture. Although this Court previously exercised certiorari jurisdiction on direct review, that review proceeded on a record that did not disclose facts necessary to trigger mandatory judicial inquiry into a structural Sixth Amendment conflict.

This petition does not ask the Court to reconsider precedent, resolve disputed facts, or determine whether a Sixth Amendment violation ultimately occurred. Instead, it presents a threshold institutional question: whether a criminal judgment may stand where a structural constitutional issue escaped judicial review *entirely* because the record never disclosed the facts necessary to trigger the required inquiry. Accordingly, no court has evaluated the conflict issue on a complete factual record.

Because the conflict was concealed, the mandatory Sixth Amendment inquiry never occurred, no waiver was obtained, and no factual record was created. *As Justice Scalia explained in Mickens v. Taylor*, the Court has not resolved how the Sixth Amendment applies where a conflict is never disclosed and the trial court is never put to the required choice of inquiry, disqualification, or waiver. 535 U.S. 162, 174–76 (2002). This circumstance was acknowledged in separate opinions, confirming the question remains unresolved.<sup>4</sup>

This petition is a clean vehicle for addressing that gap. After discovering documentary evidence of the pretrial conflict, Petitioner moved to supplement the appellate record. The Court of Appeals for the Armed Forces (CAAF) denied those motions, treating a constitutional adjudication requirement as a discretionary record-management decision.

---

<sup>4</sup> See also *id.* at 189 (Kennedy, J., concurring); *id.* at 202 n.5 (Souter, J., dissenting) (recognizing that concealed conflicts prevent the creation of a record necessary for later review).

(App. A at Apps. 1–2). Because no court—trial or appellate—has conducted the inquiry required by law, a grant–vacate–remand is the narrowest means of permitting first-instance review under the governing conflict framework. This Court has recognized its authority to ensure the integrity of military justice proceedings where structural defects preclude such review. See *Denedo v. United States*, 556 U.S. 904, 917 (2009).

**B. The Petition Presents an Unadjudicated Structural Sixth Amendment Issue**

At its core, this case involves a fundamental breakdown of the judicial process where: (1) the Sixth Amendment required a conflict-free defense; (2) R.C.M. 901(d), a binding rule promulgated under Article 36, UCMJ (10 U.S.C. § 836), required the military judge to conduct a judicial inquiry into any matter tending to disqualify counsel; (3) counsel’s affirmative on-the-record denial of any disqualifying acts prevented that inquiry from occurring; and (4) the result was a trial and appellate review conducted on a record that did not reflect the existence of the conflict. This sequence places the case squarely within the unresolved gap in *Mickens*, where concealment prevents the very inquiry that constitutional doctrine presupposes.

A structural conflict does not require a showing of outcome prejudice, but it does require judicial inquiry once the relevant facts are known or revealed. See *Holloway v. Arkansas*, 435 U.S. 475, 488–91 (1978); *Mickens v. Taylor*, 535 U.S. 162, 168–73 (2002). Here, defense counsel affirmatively stated at the outset of trial that she had engaged in no act tending to disqualify her from representation. (App. F–3 at App. 30). In reality, counsel had already accepted a pretrial assignment to the Government’s appellate division, receiving official orders on May 19, 2017, imposing a binding 24-month Active Duty Service Commitment reflected at Item 22 of the PCS orders. (App. F–1 at App. 22). This pretrial “prosecutor-in-waiting” status triggered a mandatory duty of disclosure under R.C.M. 901(d).

By failing to disclose that status, counsel prevented the trial court from conducting the required judicial inquiry and left no factual record for later review of the conflict or its potential effect.

This posture places the case within the unresolved space between *Holloway* and *Mickens*, where a concealed conflict prevents the mandatory judicial inquiry and leaves no factual record for review. Although the conflict existed before trial, it was never disclosed to the military judge, the accused, or any reviewing authority. After trial—when defense counsel reported for duty in the Government Trial and Appellate Operations Division—the Air Force appears to have addressed the issue only through an internal administrative “wall-off.” (App. F-4 at App. 32). That post-trial administrative measure did not involve disclosure to the court, did not trigger any judicial inquiry, and did not create a record capable of review. As a result, the case proceeded through trial and multiple stages of appellate review on a record that never disclosed the pretrial conflict.<sup>5</sup> (Apps. F-1 at App. 22; F-2 at App. 24; and F-4 at Apps. 31–32).

**C. No Court Has Ever Reviewed the Structural Conflict on the Merits**

This Court previously reviewed petitioner’s case in 2020. That review proceeded on a record that did not disclose a pretrial structural conflict of defense counsel. Newly discovered documentary materials now establish that the conflict existed before trial, was concealed from both the court and the accused, and therefore was never subjected to judicial inquiry at trial or on appeal. (Apps. F-1 to F-4 at Apps. 21–32). When Petitioner discovered these documents, he timely sought reconsideration to obtain judicial review of his Sixth Amendment conflict claim under *Cuyler v. Sullivan* and moved under CAAF Rule 30A to attach exhibits and to

---

<sup>5</sup> Petitioner references the post-trial administrative “wall-off” solely to illustrate that the conflict was addressed, if at all, outside the judicial process; Petitioner does not contend that the administrative measure satisfied Sixth Amendment requirements or cured the absence of pretrial disclosure.

supplement and verify the appellate record. The United States Court of Appeals for the Armed Forces denied those motions and denied reconsideration. (App. D at Apps. 14–16; App. E at Apps. 17–19; App. A at Apps. 1–2). As a result, no court—trial or appellate—has ever adjudicated the Sixth Amendment issue presented here under this Court’s governing conflict framework on a complete and fully informed record. This Court has therefore never had the opportunity to exercise Article III review of that issue—not because the claim lacked merit, but because the absence of disclosure prevented the creation of any record upon which fully informed judicial review could occur.

Where concealment prevents any court from exercising judgment on a constitutional claim, this Court has recognized that principles of finality must yield to the integrity of the judicial process itself, at least to permit judicial consideration on a complete record. *See Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246–47 (1944).

Ensuring that constitutional claims receive at least one full and informed round of judicial review preserves not only the rights of the accused, but the integrity of the judicial process itself.

**D. A Grant–Vacate–Remand Is the Narrowest and Most Appropriate Remedy**

Because the required Sixth Amendment inquiry never occurred—and could not have occurred on the existing record—no court has ever exercised first-instance judicial review of the constitutional issue presented here. Remand would permit principles of finality to rest on adjudication rather than non-review.

A grant–vacate–remand (GVR) is the narrowest and most appropriate disposition because no court has yet conducted the judicial inquiry that Sixth Amendment doctrine presupposes. Vacatur would permit the lower court, in the first instance and on a complete factual record, to determine whether the pretrial, undisclosed acceptance of a prosecution appellate billet constituted a matter tending to disqualify under R.C.M. 901(d), and, if so,

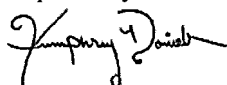
what consequence follows from the absence of the required inquiry—without asking this Court to resolve disputed facts, assess credibility, or revisit its prior holdings.

This petition does not ask the Court to decide whether a Sixth Amendment violation ultimately occurred. It asks only whether finality may attach where a structural constitutional issue escaped judicial review entirely because the record was incomplete at every stage of review—the precise circumstance this Court acknowledged two decades ago but left unresolved in *Mickens v. Taylor*. A GVR would ensure that the constitutional claim receives at least one full round of judicial review, preserving both the integrity of the Sixth Amendment framework and the integrity of this Court's prior review.

#### CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted, the judgment below vacated, and the case remanded so that the newly discovered materials—previously excluded from the record—bearing on the structural Sixth Amendment conflict may receive at least one full round of judicial review on a complete and accurate record.<sup>6</sup>

Respectfully submitted,



Humphrey Daniels III  
Applicant, pro se  
216 Aragona Drive  
Fort Washington, MD 20744

Date: February 8, 2026

---

<sup>6</sup> In the alternative, should the Court deem it useful, petitioner respectfully submits that an invited response—limited to the *existence* and *timing* of the materials reproduced in *Appendix F* and whether those materials were absent from the record during the Court's prior review—would assist the Court's consideration without reaching the merits of the constitutional claim.

The *Appendix F* materials are included solely to illustrate the procedural posture of the case and the nature of petitioner's submissions to the Court of Appeals for the Armed Forces, and are not offered for merits adjudication by this Court.

**INDEX TO APPENDICES**

**Page**

Appendix A — Order of the United States Court of Appeals for the Armed Forces Denying Petition for Reconsideration (Sept. 16, 2025) .....	App. 1–2
Appendix B — Order of the United States Court of Appeals for the Armed Forces Denying Petition for Grant of Review (Aug. 11, 2025) .....	App. 3
Appendix C — Opinion of the United States Air Force Court of Criminal Appeals (Feb. 25, 2025) .....	App. 4–13
Appendix D — Excerpts from Petition for Reconsideration filed in the United States Court of Appeals for the Armed Forces (Aug. 25, 2025).....	App. 14–16
Appendix E — Motion to Attach Exhibits to Petition for Reconsideration filed in the United States Court of Appeals for the Armed Forces (Aug. 25, 2025) .....	App. 17–19
Appendix F — Materials Submitted to the United States Court of Appeals for the Armed Forces in Connection with Motions to Supplement the Record:	
Appendix F-1 — Permanent Change of Station (PCS) Orders (May 19, 2017)...App.	21–22
Appendix F-2 — Official United States Air Force Biography (Apr. 2025) .....	App. 23–24
Appendix F-3 — Trial Transcript Excerpt (Jun. 5, 2017)* <sup>7</sup> .....	App. 25–30
Appendix F-4 — Petitioner’s Sworn Declaration (Aug. 25, 2025) .....	App. 31–32
Appendix F-5 — Notice of Non-Response by the Government (Sept. 3, 2025)..	App. 33-34
Appendix G — Condensed Timeline of Proceedings and Record Disclosure <sup>7</sup> .....	App. 35
Appendix H — Declaration of Petitioner Humphrey Daniels III Explaining the Source and Timing of Appendix F Materials (Jan. 25, 2026) .....	App. 36–38

---

<sup>7</sup> \*Appendix F-3 is an excerpt from the authenticated record of trial and is cited solely to reflect trial defense counsel’s on-the-record representations to the military judge. Although this excerpt was included among the materials submitted with petitioner’s motion to attach in connection with the petition for reconsideration, it independently originates from the official record of trial.

*Appendices F-1, F-2, F-4, and F-5* consist of official documents and *procedural filings* submitted to the United States Court of Appeals for the Armed Forces in connection with petitioner’s motions to attach exhibits and to supplement and verify the record. These materials are included solely to illustrate the procedural posture of the case and the nature of petitioner’s submissions to that court, not for merits adjudication by this Court.

*Appendix G* is a demonstrative timeline summarizing procedural events and record disclosures referenced in the Petition. It is derived solely from cited materials and presents no argument.