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| UNITED STATES  v.  NAME  RANK  U.S. Marine Corps/Navy | Government/Defense (Response to) Motion (for Appropriate Relief) (to Dismiss) (to Suppress)  18 September 2025 |

# MOTION

Pursuant to R.C.M. 703 the Government moves this honorable Court to DENY the Defense motion to compel the production of witnesses.

# SUMMARY

The Accused faces charges for allegedly stealing candy from the geedunk. The Defense filed a timely witness request with the Government on 1 January 2025. The Government provided a timely response on 5 January 2025. The Defense now moves the Court to compel the witnesses denied by the Government.

# STATEMENT OF GOOD CAUSE

(if applicable, explain why good cause exists/does not exist for late filing)

# FACTS

1. Each fact should note the relevant evidentiary support. It is fine to reference materials that have previously been provided to the court. It is also appropriate to cite to materials provided by the opposing party.
2. If some of the facts are not in dispute, it may be appropriate to add the following. The Government concurs with the Defense statement of facts numbers 1-10, 14, and 20 and adds the following.
3. The candy in the geedunk consisted of Twizzlers and Snickers. [AE II, Encl 1]
4. In his confession, the accused indicated that he loves Snickers. [AE II, Encl 2]
5. Snickers cost approximately $1.00/each. [Expected testimony of Agent Alpha]

# BURDEN

1. The burden of proof and persuasion rests on the moving party for this motion. The standard as to any factual issue necessary to resolve this motion is a preponderance of the evidence. RCM 905(c)(1).

# LAW

1. List the rules and cases that you will rely on to make your argument.
2. R.C.M. 912(a)(2): Other materials. A copy of any written materials considered by the convening authority in selecting the members detailed to the court-martial shall be provided to any party upon request, except that such materials pertaining solely to persons who were not selected for detail as members need not be provided unless the military judge, for good cause, so directs.
3. *United States. v. Jeter*, 84 M.J. 68 (C.A.A.F. 2022). Race is an impermissible criterion to be considered in selecting court members.
4. *United States v. Bess*, 80 M.J. 1 (C.A.A.F. 2019). There is no right to have members of the accused’s race on a court-martial panel.
5. *United States v. Riesbeck*, 77 M.J. 154 (C.A.A.F. 2017). Court-stacking is a form of improper influence.

# ARGUMENT

1. Apply the facts to the law. Explain how the fact section supports the conclusions of law you want the court to make. Use citations in footnotes as necessary to support your arguments.
2. Based on the evidence presented, there is no reason to allow the defense to access the questionnaires of non-selected members, nor is there reason to produce any email correspondence between any member and the convening authority or other person on the convening authority’s staff.

# EVIDENCE TO BE PRESENTED

1. List the evidence you will present in support of your motion. Voluminous enclosures that contain irrelevant information are not helpful. Remove unnecessary pages from documents and redact videos.
2. The Defense relies on the following enclosures in support of this motion:
   1. NCIS ROI dated 1 January 2025.
   2. Photo of Snickers wrapper.
   3. Videotaped statement of the accused, minutes 25:15-47:00.
3. The Defense intends to call the following witnesses in support of this motion:
   1. Testimony of Agent Alpha.

# RELIEF REQUESTED

1. The Defense respectfully requests that the court GRANT the Defense motion.
2. Only request oral argument if there are additional points you will need to make that do not appear in your motion. Oral argument is/is not requested.

Respectfully submitted,

I. M. DEFENSE

Captain, U. S. Marine Corps

Defense Counsel