



DEPARTMENT OF THE AIR FORCE
OFFICE OF THE JUDGE ADVOCATE GENERAL
MILITARY JUSTICE AND DISCIPLINE

January 31, 2023

Brigadier General Gail E. Crawford
Director, Military Justice and Discipline
1500 West Perimeter Road, Suite 1330
Joint Base Andrews Naval Air Facility Washington, MD 20762

The Honorable Barry Moore
United States House of Representatives
1504 Longworth Office Building
Washington, DC 20515

Dear Representative Moore:

This is in reply to your inquiry to President Joseph R. Biden of June 27, 2022, regarding the court-martial of Major Clarence Anderson III.

You asked whether "the Air Force's response to former-Congressman Roby [was] also submitted as discovery to Major Anderson's defense counsel, per discovery rules outlined in the 2012 Military Court Martial Manual, in effect at the time of Major Anderson's court martial in 2015." We are unable to determine whether Major Anderson's defense counsel received a copy the Air Force's response to former Congresswoman Roby. However, we note the response to Congresswoman Roby detailed procedural matters of which Major Anderson's defense counsel was well aware.

Subsequent to the response to Congresswoman Roby, the military judge did hold a post-trial hearing to consider the circumstances regarding a \$10,000 payment to a witness who testified at a pre-trial motion hearing. He found that if a court-martial were to consider the evidence regarding the payments, "that consideration would not probably produce a substantially more favorable result for" Major Anderson, and, therefore, did not warrant a new trial. The military judge also determined he did not have the authority to review any other additional matters Major Anderson sought to address at the post-trial hearing because the record of trial was already authenticated. Thus, any additional matters would have to be raised on appeal.

The Air Force Court of Criminal Appeals (AFCCA) reviewed this case and determined the military judge did not have the authority to grant a new trial. The AFCCA opinion referenced the fact that Major Anderson requested a second Article 39(a) hearing from the convening authority and petitioned The Judge Advocate General of the Air Force for a new trial based on the matters he sought to address at the post-trial hearing. Additionally, he submitted pleadings and documentary evidence and presented oral argument to AFCCA. Before denying the petition for a new trial, AFCCA was convinced Major Anderson had been afforded "a forum in which to make his case." The United States Court of Appeals for the Armed Forces also reviewed this case. They agreed and denied his first and second petitions for a new trial.

I trust this information is helpful. Thank you for the opportunity to follow up on your concerns.

Sincerely,

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GAIL E. CRAWFORD
Brigadier General, USAF
Director