THE UNITED STATES ARMY
COURT OF CRIMINAL APPEALS

U N I T E D S T A T E S, Appellee	PETITIONER'S REPLY BRIEF IN SUPPORT OF PETITION FOR A NEW TRIAL
v.	Docket No. ARMY 20130679
First Lieutenant **CLINT A. LORANCE,** United States Army, Appellant	Tried at Fort Bragg, North Carolina, on 25 April, 22 July, 30 July, 31 July, and 1 August 2013 before a general court-martial appointed by the Commanding General, Headquarters, 82nd Airborne Division, Fort Bragg, North Carolina, Colonel Kristen Brunsen, military judge, presiding.

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

TABLE OF CASES, STATUTES, AND OTHER AUTHORITIES

Case Law

Supreme Court of the United States

Court of Appeals for the Armed Forces

Federal Circuit Court

Statutes

Uniform Code of Military Justice

Manual for Courts-Martial, United States, 2012 Edition

Army Regulations

COME NOW the undersigned appellate defense counsel pursuant to Rule 22(c) of this honorable court's Rules of Practice and Procedure and files this Reply Brief to the government's 12 November 2015 Answer (Gvt. Answer) to First Lieutenant (1LT) Lorance's 14 September 2015 Petition for a New Trial (Petition).

INTRODUCTION

In its Answer to 1LT Lorance's Petition, the government conceded *Brady* and Rule for Courts-Martial (R.C.M.) 701 violations based on the total absence of any discussion contesting the bases of 1LT Lorance's petition. Nor does the government dispute that the newly-discovered evidence is *Brady*

material which should have been disclosed under the Fifth Amendment to the U.S. Constitution. Likewise, the government does not address the prosecution's statutory and regulatory disclosure obligations pursuant to R.C.M. 701 and Army Regulation (AR) 27-26. In similar fashion, the government does not take issue with 1LT Lorance's claim that the evidence was not disclosed as required, either pretrial or pre-sentencing. These separate bases for the Petition remain unanswered.

The absence of a governmental challenge to these critical points cannot be attributed to oversight or mere "missing the issue," especially given the well-developed and widely-familiar disclosure obligations in this area of law. In light of 1LT Lorance's showing of newly-discovered evidence and in the absence of a governmental challenge to its non-delegable *Brady* and statutory disclosure obligations, this Court should grant the Petition for a trial of "all" the facts, as opposed to the trial which occurred where the government withheld evidence favorable to the defense.

Turning to what the government did argue in its Answer, the main disputes can be fairly summarized as: i) the newly-discovered evidence does not establish that the victims were lawful targets and thus even if the court-martial knew they were the enemy, there could be no more favorable result for 1LT Lorance; ii) the newly-discovered evidence was available at

trial even though the government withheld it; iii) the expert 1LT Lorance retained employed unreliable methods resulting in unreliable findings and conclusions; and iv) 1LT Lorance did other bad things so this court should deny the Petition. None of these is compelling because each misses the fundamental constitutional and statutory bases for 1LT Lorance's Petition: the Fifth Amendment, *Brady*, R.C.M. 701, and AR 27-26, applied as part of, not to the exclusion of, the R.C.M. 1210 framework.

DISCUSSION

I. The Result Would Have Been Substantially More Favorable

The government suggests that even though the newly-discovered evidence shows that the alleged victims were associated with IED networks, IED events, and the deaths of U.S. paratroopers, the trial result would not have been more favorable for 1LT Lorance. To reach this conclusion, the government argues that whether 1LT Lorance knew that the three riders were truly the enemy is irrelevant to the question of whether the engagement was lawful. (Gvt. Answer, 23).

The government's reasoning is flawed. The argument fails to consider all of the evidence introduced at trial. First, evidence was introduced that the engagement was lawful pursuant to the applicable Rules of Engagement (ROE). Second, and more significantly, the government fails to recognize the obvious - that if those killed were truly the enemy, the landscape of this

court-martial would not only be drastically altered, but it most likely would not have occurred at all.

It is undisputed that Private First Class (PFC) Skelton observed the trio riding back-to-back on a single motorcycle toward First Platoon's single file route-of-march behind a minesweeper. Private First Class Skelton testified that he perceived them through the eyes of an experienced combat infantryman from his perch on top of a grape berm. He concluded they were a threat pursuant to the applicable ROE and that he was entitled to use force. (R. 585-586).

The members had this testimony before them. If they chose, the panel was entitled to accept this testimony as justification to engage the three riders; justification because the ROE authorized the use of deadly force.

This basis all but evolves to a duty to seriously consider acquittal when the members learned that the enemy rather than innocent civilians was killed by First Platoon. In addition to PFC Skelton's testimony that he concluded hostile act/intent, the members would have received evidence that the three-riders were linked to each other, to IEDs, and to U.S. casualties.

Expert testimony and accompanying audio-visual aids, to include digital images of the riders, digital images of their terror affiliates, biometric enrollment data, the grid coordinates of IED detonations, link-chart graphics, and digital

images of the paratroopers killed by the enemy would have been admissible, available to the members, and influential on their deliberations. That First Platoon shot terrorists who are linked to U.S. killed-in-action (KIAs) suggests the strong probability of a more favorable result for 1LT Lorance. This would have been a trial of "all," not just some, of the facts.

Had the prosecution complied with its constitutional and statutory obligations, the members would have adjudicated an entirely different trial on significantly different facts, more favorable to 1LT Lorance. The prosecution's case-in-chief and theory of criminal responsibility would have been altogether different if not gutted. Army prosecutors would have had to stand before officers of the 82nd Airborne Division, each of them a veteran of overseas operations, with the dauntingly conflicting task of asking the airborne infantry to convict and punish one of their Lieutenants for ordering fire on the enemy who killed their brothers-in-arms, because of some notional violation of the ROE.

The defense's cross-examination of government witnesses would have contributed to a more favorable result for 1LT Lorance. It stands to reason that the members of First Platoon would probably have viewed circumstances differently had they known about the true identities and affiliations of the enemy.

The defense's case-in-chief would have produced a result

more favorable for 1LT Lorance. Had the defense been afforded the opportunity to prepare using the identities and affiliations of the purported victims, counsel could have retained a consulting and/or testifying expert and prepared an altogether tailored defense to build upon PFC Skelton's testimony, the nefarious acts of the purported victims as those who killed U.S. paratroopers. The newly-discovered *Brady* material could help establish a defense, and it was up to the defense counsel to determine how to best use it - after the government disclosed it.

Indeed, the Court of Appeals for the Armed Forces recently addressed this point in *Stellato v. United States*, 2015 C.A.A.F Lexis 725, at page 44:

> [P]rejudice can arise from discovery violations when those violations interfere with an accused's ability to mount a defense. We conclude that these cases are grounded in sound reasoning, and we adopt this approach in the court-martial context.

What is more, *Brady* extends to pre-sentencing. In the government's Answer, there is no dispute that the identities and affiliations of the three-riders as terrorists as opposed to innocent civilians would have produced a more favorable sentence for 1LT Lorance.

Accordingly, at each step of the trial process, the disclosure violations reverberated depriving 1LT Lorance of a fair trial based upon "all" the facts.

Had the evidence contained in the Petition been disclosed, the result of the trial would have been more favorable for 1LT Lorance.

II. The Government Withheld *Brady* and R.C.M. 701 Material

The government claims that 1LT Lorance should have obtained this newly-discovered evidence before or at trial. (Gvt. Answer, 17). In effect, this contention really asks this Court to ignore the Fifth Amendment, *Brady*, R.C.M. 701, and AR 27-26. The evidence constitutes *Brady* material. As *Brady* material, the prosecution, "not" the defense, had the obligation to produce the evidence and turn it over to the defense. That obligation is always with the prosecution and cannot be shifted to the defense.

The government's reasoning is tantamount to impermissibly shifting a constitutional duty from the sovereign to the individual, which cannot be correct. Whatever measure of due diligence trial defense counsel performed or failed to perform does not relieve the prosecution of its constitutional and statutory disclosure obligations. That the evidence was not available at trial is demonstrated by the prosecution's having failed to seek it out, collect it from Army databases and/or

other U.S. government agencies, and disclose it. *Stellato,* 2015 C.A.A.F Lexis 725 (Government had a duty to disclose evidence even though that evidence was possessed by a state agency).

Indeed, *Brady's* disclosure obligations are continuing, even post-trial. The prosecution has an ongoing constitutional responsibility to turn over all exculpatory material whenever they find it. *Imbler v. Pachtman*, 424 U.S. 409, 427, n.25, (1976), recognized that "after a conviction the prosecutor also is bound by the ethics of his office to inform the appropriate authority of after-acquired or other information that casts doubt upon the correctness of the conviction."

Here, the government has had identity and affiliation evidence since at least 2 July 2012, the date of the incident giving rise to the court-martial. During clemency, beginning in November 2014 and continuing through February 2015, the government was placed on actual notice of the *Brady* and R.C.M. 701 material b way of various clemency filings, each matters of record.

In September 2015 upon filing this Petition, the government was again apprised of the information, but to this date, there is no showing that the government attempted, even at this stage, to use the biometric, grid coordinates, the named databases and/or other information presented to ascertain or verify the identities and affiliations of the "males of apparent Afghan

descent." For this reason, it appears that the government is continuing its violation of the Fifth Amendment, *Brady*, R.C.M. 701, and AR 27-26.

This ongoing violation is worsened when viewed in light of Supreme Court precedent which requires prosecutors to seek out information favorable to the accused. In *Kyles v. Whitley*, 415 U.S. 419, 437-438 (1995), the Supreme Court held that a prosecutor has a duty to learn of favorable evidence known to other prosecution and investigative agencies acting on the prosecution's behalf, including police agencies.

Here, the "defense" provided the government with the information over one year ago and to date, even in the preparation of the instant Answer, the government apparently has not coordinated with intelligence resources or the Criminal Investigation Division or various Task Forces in Afghanistan on this matter.

In the end, though, that the government did not verify the information presented repeatedly to them drives home the unvarnished reality of the situation: the evidence should have been disclosed "before trial." It was not. Verification now cannot cure the trial errors. That bell cannot be un-rung. It is well-settled that once a reviewing court has found a *Brady* error, the remedy is a new trial to prevent continued manifest injustice.

III. Challenging the Expert Misses the *Brady* Point

The government next attacks the methods and conclusions of the defense expert. For example, the prosecution states that the newly-discovered evidence is "riddled with this sort of unsupported assertion...." (Gvt. Answer, 14).

The government here too misses the point: had the identities and affiliations of the "males of apparent Afghan descent" been disclosed as is required, 1LT Lorance's defense at trial likely would have included the very type of expert analysis, testimony, and material helpful to the members contained in the newly-discovered evidence made a part of the instant Petition. *Brady* affirmatively requires disclosure of exculpatory materials so as "to allow the defense to use the favorable material effectively in the preparation and presentation of its case." *United States v. Pollack*, 534 F.2d 964, 973 (D.C. Cir. 1976).

That is, an expert in biometrics and/or IED networks would have been consulted, assisted in the pretrial interviews of government witnesses, called to testify, then employed expert demonstrative exhibits like that now before this Court, as admissible testimony, to assist the panel in determining the facts and the defense case-in-chief. That testimony would have contained additional bases for reasonable doubt and acquittal.

The government deprived 1LT Lorance of this all-important opportunity under due process to perfect his defense.

To the government's specific point, of whether the "newly-discovered" evidence is trustworthy, the Court in *United States v. Brooks*, 49 M.J. 64, 69 (C.A.A.F. 1998) explains what a reviewing court should do. In *Brooks*, the Court noted that the task [now] is neither to "determine whether the proffered evidence is true" nor to "determine the historical facts." Rather, this Court should determine whether "the evidence is sufficiently believable to make a more favorable result probable." *Brooks*, 49 M.J. at 69.

This Court has before it: i) an expert resume describing twenty years of domestic law enforcement experience in New York City followed by seven years of work in Afghanistan investigating, tracking, and prosecuting IED terrorists and their network affiliates in coordination with the F.B.I., U.S. Forces, and associated Task Forces; ii) an expert affiant; iii) digital images; iv) link or "spider-chart" associations; and v) a 30-minute audio-visual presentation based upon expert analysis of available data prepared in partnership with a professional trial graphics company with an excellent reputation.

Significantly, the government has offered nothing in the way of competing evidence to refute the accuracy of the newly-discovered evidence. Following the analysis in *Brooks, supra*,

this evidence is sufficiently "believable to make a more favorable result probable." *Id.*

IV. Sullying 1LT Lorance Is Not Relevant to the Petition

The government also seeks to divert attention away from the forceful claims put forth by 1LT Lorance by instead focusing on facts which present 1LT Lorance in a less than favorable light, (Gvt. Answer at 15). These assertions are in error.

The sullying approach of course misses the central point: the prosecution has the obligation to disclose *Brady* material about the victim's identities and terror affiliations, especially when that information was available in government databases in widespread use throughout the combined joint area of operations, before trial, and arguably, to the current date.

Rather than attack 1LT Lorance, the real focus must be the prosecution's discovery violations. The defense made written pretrial discovery requests. Attached as Defense Appellate Exhibit M, detailed trial defense counsel propounded the following written discovery requests upon the prosecution:

> Disclosure of all evidence affecting the credibility of any and all witnesses, potential witnesses, complainants, and persons deceased ("these persons") who were in any way involved with the instant case ….
>
> Any information of any prior and/or subseque nt propensity on the part of any witness and/or alleged victim to be an aggressor, to incite aggressive behavior, and/or any other

> pertinent trait of character of any witness and/or alleged victim.
>
> The defense specifically asks the government to exercise due diligence in making such a search as to any persons who were in any way involved with the instant case…

(Def. App. Ex. M, ¶¶ 2 and 2b).

The defense specifically requested information about "persons deceased," "propensity … of any alleged victim to be an aggressor, to incite aggressive behavior," and the defense specifically asked the government to "exercise due diligence in making such a search as to any persons who were in any way involved with the instant case."

There were only two deceased persons, the purported victims. Those victims, as well as the purported victim of the attempted murder conviction, are now linked to terror, IEDs, and U.S. casualties - surely propensity to be an aggressor.

Yet notwithstanding these specific requests to produce important information about the identities and affiliations of these fighters, the government failed to do so. What is more, rather than produce information about the deceased persons and their propensity for aggression, which was/is available on U.S. government databases, the prosecution instead lined-out and struck the names of the purported victims with pen and ink on the eve of trial to amend the Charges and Specifications for murder and attempted murder). (R. Charge Sheet).

Even more troublesome, the CID identified Mohammad Rahim as a military-aged-male First Platoon shot in the arm that day. He was detained with home-made-explosive (HME) residue on his hands. He was sent to the U.S. hospital on Kandahar Airfield for treatment. There, the CID interviewed him and collected his bloody clothes. Those clothes contain DNA evidence which should have been tested.

Whether it was tested remains unknown to the defense because this evidence of a "person involved in the event" with "aggressive propensity" was not disclosed. As it turns out, Mohammad Rahim is linked to at least one IED event in June 2012 in Kandahar, one-month "prior" to the engagement at issue. As the audio-visual evidence discussing the "newly-discovered evidence" explains more fully, the CID had a very bad terrorist in their custody, but released him.[1] (R. Allied Papers, CID Narrative).

These failures stand in contrast to the requirements of *Brady*, R.C.M. 701, *Kyles v. Whitley*, 514 U.S. 419, 433-34, 437-40 (1995) (noting that prosecution must disclose evidence requested by a defendant even if it is held by police investigators) and *United States v. Williams*, 50 M.J. 436, 442 (C.A.A.F. 1999).

[1] The release of Mohamad Rahim is one example of how military-aged-males at the location that day committed acts against U.S. and coalition forces after that day.

V. *Brady* and R.C.M. 701 Violations Require a New Trial

The government's next urges this Court to conclude that the U.C.M.J. Article 134 convictions are somehow salvageable in the face of the government's constitutional and statutory disclosure failure; that the offenses other than murder and attempted murder are not covered by 1LT Lorance's Petition. (Answer at 15). This argument must fail.

First, when it concerns a discovery violation, courts can fashion a remedy appropriate for the circumstance. *Stellato*, 2015 CAAF LEXIS at 45. Considering the grievous nature of the violations in this case, a completely new trial is the only appropriate remedy. Second, the maximum authorized punishments for the Article 134 offenses are capped in this case at five years (discharging a firearm is one-year); (obstructing justice is five years); (solicitation is five years); (communicating a threat is 3 years). Accordingly, it is highly improbable that 1LT Lorance would have been sentenced for these offenses, had his case been referred to a general court-martial, to 20 years confinement, total forfeitures, and a dismissal.

Third, the government's position ignores the taint the constitutional and statutory non-disclosure errors have on the government and defense witnesses at trial. During pretrial interviews, now correctly informed that 1LT Lorance engaged terrorists, each of the witnesses may have viewed things

differently knowing 1LT Lorance engaged the enemy, not innocent civilians, especially when they learned that his order to engage was actually to eliminate the enemy who stood to harm or kill them.

CONCLUSION

First Lieutenant Lorance's Petition is based on separate violations of the Due Process Clause of the Fifth Amendment, *Brady*, R.C.M. 701, and AR 27-26 as a part of the R.C.M. 1201 new trial framework. The government is really asking this Court, by its declination to address the various bases raised in 1LT Lorance's Petition, to turn a blind eye to the Fifth Amendment, *Brady*, R.C.M. 701, and AR 27-26. This, however, this court cannot do.

Absent from the prosecution's Answer is any discussion of these authorities and the well-settled government obligation to turn over exculpatory and mitigating evidence favorable to the defense, even in the absence of a defense request. *United States v. Agurs*, 427 U.S. 97, 107 (1976). It bears repeating: there is simply no discussion of the Fifth Amendment, *Brady*, R.C.M. 701, or AR 27-26. And, the defense requested information about the deceased, but none was forthcoming.

The government does not dispute that the newly-discovered evidence is *Brady* material. Nor does the government dispute that it failed to turn the *Brady* material to the defense at a time

when counsel for the defense could use it. Each of the arguments the government raises in its Answer thus misses the mark.

It is undisputed that the evidence was discovered after trial. The evidence was unavailable to the defense at trial because the prosecution did not disclose it pursuant to the Fifth Amendment, *Brady*, R.C.M. 701, and/or AR 27-26. The prosecution did not disclose it in response to a written defense request for it. For the reasons detailed in 1LT Lorance's Petition and those discussed above, the withheld evidence would have produced a more favorable result for 1LT Lorance.

WHEREFORE, pursuant to R.C.M. 1210, this Court should grant 1LT Lorance a new trial.

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CERTIFICATE OF SERVICE

UNITED STATES v. Lorince

Army Docket No. 20130679

Assignment of Error _____

Motion _____

Other ✓

I certify that a copy of the foregoing was delivered to the Court and the Government Appellate Division on 23 Nov 15.

[signature]
Paralegal/Attorney
Defense Appellate Division

IN THE UNITED STATES ARMY
COURT OF CRIMINAL APPEALS

U N I T E D S T A T E S, Appellee	MOTION TO ATTACH DEFENSE APPELLATE EXHIBIT M
v.	Docket No. ARMY 20130679
First Lieutenant (O-2) **CLINT A. LORANCE,** United States Army, Appellant	Tried at Fort Bragg, North Carolina, on 25 April 2013, 22 July 2013, 30 July 2013, 31 July 2013, and 1 August 2013, before a general court-martial appointed by Commander, Headquarters, 82nd Airborne Division, Colonel Kirsten V.C. Brunson, Military Judge, presiding.

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

COME NOW the undersigned appellate defense counsel, pursuant to Rules 22 and 23(b) of this court's Internal Rules of Practice and Procedure, and moves to attach Defenses Appellate Exhibit M on behalf of the appellant, First Lieutenant Clint A. Lorance. This exhibit is necessary for this court to evaluate appellant's petition for new trial based on the government's failure to disclose exculpatory evidence. This exhibit, indicating defense's request for such evidence before trial, is also referenced in appellant's reply to Government's Brief on Behalf of Respondent, filed contemporaneously with this motion.

WHEREFORE, appellate defense counsel respectfully request this Court grant the instant motion.

PANEL NO. 3

MOTION TO ATTACH

GRANTED: _____
DENIED: _____
DATE: _____

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Defense Appellate Exhibit M

Grady, William M (Bill) CPT USARMY JMTC-GTA (US)

From: Grady, William M (Bill) CPT USARMY XVIIITH ABN CORPS (US)
Sent: Monday, July 01, 2013 4:35 AM
To: Otto, Kirk W CPT USARMY (US)
Cc: Guy; Grady, William M (Bill) CPT USARMY XVIIITH ABN CORPS (US)
Subject: US v. Lorance - Defense Discovery Request #1

CPT Otto,

IAW RCM 701 and Article 46, UCMJ, please provide the following information:

1. Any immunity, leniency, pretrial or post-trial agreements, any offers or agreements, direct or indirect, oral or written, express or implied, or any payments or promises of payment or any other consideration from any person or entity in any form whatsoever made to or by any witness or potential witness or any attorney for any witness or potential witness (whether actually communicated to the witness and/or potential witness by the witness' attorney) at any stage of the instant case or any charged or uncharged case related offenses and which was intended to induce or might have induced or which resulted in any testimony at any stage of the instant case. This request includes information relating to any past, present, or potential future plea agreements, immunity grants, payments or consideration of any kind and in any form, assistance to or favorable treatment with respect to any pending civil, criminal, or administrative matter between the government and the witness, and any other matters which could arguably create an interest or bias in the witness in favor of the government or against the defense or act as an inducement to color or shape testimony. UCMJ Art. 46; M.R.E. 301(c)(2); United States v. Boyd, 27 M.J. 82 (C.M.A.1988); United States v. Colcol, 16 M.J. 479 (C.M.A.1983); United States v. Webster, 1 M.J. 216 (C.M.A.1975); Banks v. Dretke, 540 U.S. 668, 124 S.Ct. 1256, 157 L.Ed.2d 1166 (2004); United States v. Bagley, 473 U.S. 667, 105 S.Ct. 3375, 87 L.Ed.2d 481 (1985); Napue v. Illinois, 360 U.S. 264, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959); Hayes v. Brown, 399 F.3d 972 (9th Cir.2005)(en banc).

This includes any documentation reflecting the above requests.

2. Disclosure of all evidence affecting the credibility of any and all witnesses, potential witnesses, complainants, and persons deceased ("these persons") who were in any way involved with the instant case and/or any charged or uncharged related offenses, including but not limited to:

a. Prior federal, state, and foreign civilian arrests, investigations, and convictions as well as any military apprehensions, arrests, and court-martial convictions, and any titling of any of these persons, including a check with the National Crime Information Center (NCIC), National Records Center (NRC), Interpol, all local military criminal investigatory agencies, and any state criminal justice data centers and department of motor vehicles in which the person has resided or has some connection (e.g., home of record, situs of entry on active duty, situs of college/university and post-graduate education, etc.). United States v. Jenkins, 18 M.J. 583 (A.C.M.R.1984); United States v. Agurs, 427 U.S. 97, 96 S.Ct. 2392, 49 L.Ed.2d 342 (1976).

b. Any information of any prior and/or subsequent propensity on the part of any witness and/or alleged victim to be an aggressor, to incite aggressive behavior, and/or any other pertinent trait of character of any witness and/or alleged victim. M.R.E. 404(a)(2) and (a)(3).

The defense specifically asks the government to exercise due diligence in making such a search as to any of these persons who were in any way involved with the instant case and/or any charged and/or uncharged related offenses. Affirm or deny if any of these persons:

i. has ever been subject to a proceeding pursuant to UCMJ Art 15;

ii. has ever received any adverse military administrative action, including, but not limited to, any GOMORs relating to the current case of US v. Lorance;

3. Notice of all facts for which the government will request the military judge to take judicial notice. M.R.E. 201.

4. All statements, oral or written, made by the summary, special, or general court-martial convening authorities in the instant case and/or as to any charged or uncharged related offenses or by any officer superior to the general court-martial convening authority, whether written or oral, which:

a. in any manner, withholds authority from a subordinate commander to dispose of the accused's case under the UCMJ, to impose nonjudicial punishment upon the accused, to order the accused's separation or release from active duty or active duty for training, or to order the accused into pretrial confinement or restriction;

b. provides guidance to any subordinate commander concerning appropriate levels of disposition and punishment of any offense, whether such guidance was given before or after any offense(s) in issue in the instant case and/or as to any charge or uncharged related offenses;

Thanks,

CPT Grady

CERTIFICATE OF SERVICE

UNITED STATES v. Lorance

Army Docket No. 20130679

Assignment of Error _____

Motion ✓

Other _____

I certify that a copy of the foregoing was delivered to the Court and the Government Appellate Division on 23 Nov 15.

Paralegal/Attorney
Defense Appellate Division