

**NAVY-MARINE CORPS TRIAL JUDICIARY
SOUTHWEST JUDICIAL CIRCUIT
GENERAL COURT-MARTIAL**

UNITED STATES	
RYAN MAYES SR USN	GOVERNMENT MOTION FOR RELIEF – EXCLUSION OF EVIDENCE AND ARGUMENT

Comes now the Government and moves this Court for the determination of the admissibility of evidence under R.C.M. 906(b)(13). The Government moves to exclude during the merits: 1) any written portion of the USS Bonhomme Richard (LHD-6) Command Investigation (JAGMAN) and 2) evidence of non-USS Bonhomme Richard crew firefighting efforts. Additionally, the Government moves to exclude cross-examination or opening/closing arguments that the U.S. Navy is seeking a “scapegoat” by referring this case to trial or attempting to deflect blame from its failed firefighting efforts. Such arguments and/or allusions are jury nullification.

FACTS

FIRE ABOARD USS BONHOMME RICHARD ON 12 JULY 2020

The Government avers, though the defense denies, that on shortly after 0800 on 12 July 2020 the accused committed arson onboard the USS Bonhomme Richard (LHD-6) and hazarded it by wrongfully, willfully, and maliciously setting a fire in the Lower Vehicle Storage Area (Lower V). The fire was quickly detected but only ineffective firefighting occurred until approximately 1030 when all firefighters were removed from the ship due to dangerous conditions. At approximately 1050 an internal explosion ripped through the USS Bonhomme Richard (LHD-6). Firefighters later reentered the ship to fight the fire but it continued to burn until 16 July 2020. The Navy’s evaluation was that the ship was beyond economical repair and it was decommissioned due to its extensive damage.

AE LVII(57)

On Sunday 12 July PS3 Kenji Velasco was a member of Deck Department of the USS Bonhomme Richard. He reported for work at 0630 but did not work on Deck Department duties. Instead he an armed sentry positioned in the Upper Vehicle storage area at the brow headed down to the pier. He stood this watch alone. From where he was positioned he could see the ramp going down to the Lower Vehicle storage area. He arrived at his post at approximately 0725. During his pass-down from the prior watch stander there was no indication or issue of a fire. Between 07:25 and colors at 08:00 he did not see anyone enter the Lower Vehicle storage area, see smoke, feel heat, or observe any indications of a fire.

Approximately 08:05 PS3 Velasco saw an individual – whom he has testified to was SR Mays¹ - walk alone past him into the Lower Vehicle storage area. This sailor walked into the Lower Vehicle storage area but never walked back up past PS3 Velasco. No other person walked past PS3 Velasco into the Lower Vehicle storage area prior to the fire being discovered.

BM2 Beau Benson was PS3 Velasco's supervisor that day and after 08:05 he came to check on PS3 Velasco. BM2 Benson walked off the ship briefly to help another sailor and then returned onboard. While both were standing in the Upper Vehicle storage area talking they noticed white hazy smoke coming from the Lower Vehicle storage area. BM2 Benson quickly ran to the Quarterdeck, a short distance away, to report the fire. He returned to PS3 Velasco, saw black smoke, and descended down the Lower Vehicle storage area ramp. However, he could not make it into Lower Vehicle storage area due to the smoke.

DC2 Jeffrey Garvin was the Fire Marshall onboard on 12 July 2022. He responded to the ship's bells calling away the fire. Between 08:35 and 08:38 he attempted to descend into the Lower Vehicle storage area by using the ramp. During his attempt to into the Lower Vehicle storage area he saw smoke and felt significant heat. He left to secure a self-contained breathing apparatus (SCBA) and a Naval Infrared Thermal Imaging (NIFTI) device. A NIFTI allows a person to hotspots in dense smoke. Some NIFTI devices can also take air temperatures. DC2 Garvin returned to the Lower Vehicle storage area and made it past the bulkhead. Using, in part, his NIFT, he was able to see an orange glow in the Lower Vehicle storage area near frame 59. After several minutes in the Lower Vehicle storage area he returned to the Upper Vehicle Storage unit for safety due to intense heat and smoke. When DC2 Garvin sees the fire at frame

¹ For the purposes of this motion the Court need not determine the identity of who walked by PS3 Velasco only that whomever it was did not report a fire in the Lower Vehicle Storage area.

59 in the Lower Vehicle storage area there had been no firefighting efforts attempting to extinguish the fire.

On 12 July 2020 ENC Brian Six was working as the Alternate Engineering Officer. He quickly responded to the ship's bells calling away the fire between 08:20 and 08:30. Upon arriving in the Upper Vehicle Storage area he could see down the ramp but the Lower Vehicle Storage area was blanketed in smoke and he described the fire as "roaring." Chief Six donned firefighting gear and returned to Lower Vehicle Storage area with a NIFTI. When he descended into the Lower Vehicle Storage area with the NIFTI he took temperature readings of over 500 degrees. When he arrived in the Lower Vehicle Storage area he took NIFTI temperatures of over 1,000 degrees. Like PO Garvin he saw an orange glow in the bulkhead area indicative of a fire. Chief Six was in the Lower Vehicle Storage area prior to any effort to extinguish the fire.

CREATION OF BHR JAGMAN

After the fire onboard the USS Bonhomme Richard (LHD-6) (BHR) the Navy began multiple inquiries into the cause and origin of the fire. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and the Naval Criminal Investigative Service (NCIS) initiated a criminal investigation. The Navy's non-criminal review of the fire encompassed programmatic failures, future firefighting programmatic changes, leadership failures both aboard the ship and ashore, and lessons learned to document and prevent future fires.

On 4 August 2020 VADM Conn was appointed the investigating officer into the fire aboard the USS Bonhomme Richard (LHD-6). He was initially tasked with investigating the circumstances surrounding the fire and the actions taken in response to the fire onboard USS Bonhomme Richard (LHD 6) that occurred on or about 12 July 2020. On 15 September 2020 his orders were modified to state "you shall not interfere or hinder any law enforcement investigation, or a potential federal or military prosecution." It was further ordered that "while you must continue to assess whether individuals complied with applicable procedures, policies, and programs, do not inquire into or investigate any individual related to the initial cause of the fire." (Enclosures previously submitted.)

The BHR JAGMAN states that the fire onboard the USS Bonhomme Richard (LHD 6) was started by arson. VADM Conn did not come to this conclusion himself but relied upon the

analysis and opinions as to the origin and cause of the fire made by ATF. The author of this report was ATF Special Agent Matt Beals who made

The section of the BHR JAGMAN that discusses the origin of the fire is three paragraphs long and references ATF analysis and decisions. VADM Conn did not conduct scientific tests in an attempt to replicate or refute the ATF origin and cause findings. Neither VADM Conn nor the BHR JAGMAN identified an arsonist suspect.

In October 2021 the Navy publically released the USS Bonhomme Richard (LHD-6) Command Investigation (JAGMAN). In this report the Navy states that the ship was lost “due to an inability to extinguish the fire.” The report concluded with recommendations as to accountability for a wide variety of personnel both military and civilian. The report does not focus on and only mentions fleetingly that the cause of the fire was arson while making no effort to identify the arsonist. (The identity of the arsonist was explicitly excluded from the JAGMAN scope of investigation.) For the purposes of trial on the merits the JAGMAN, its conclusions, programmatic recommendations, and accountability recommendations are irrelevant and should be excluded. These items have no bearing on a finding of guilt or innocence of the accused regarding the commission of the crime itself.

LAW AND ARGUMENT

The crimes were completed prior to any firefighting efforts by non-ship’s crew

As PO Velasco, PO Benson, PO Garvin, and Chief Six’s eye witness accounts make clear the crime was completed prior to its discovery by the Navy and ship’s crew. It is obvious that PO Velasco and PO Benson see the early beginnings of the fire with their smoke observations coming from the Lower Vehicle Storage area. PO Garvin and Chief Six see smoke but also fire in the Lower Vehicle Storage area, not only with their eyes but with NIFTI’s. There is no evidence that the fire extinguished by itself and was revived by anyone. By the time the four sailors have seen the smoke and fire the accused has committed arson and the ship has been hazarded. Thus non-ship’s crew firefighting efforts², or lack thereof, are not relevant under M.R.E. 401, M.R.E. 402, and M.R.E. 403.

² There are early efforts by ship’s company to attack the fire by sending a hose team into the Lower Vehicle Storage area. These fail because there are no working hoses in the area.

This is not a trial of the Navy or its firefighting methods. There were failures to extinguish the fire that may be relevant for sentencing, but not the merits. Firefighting failures after the commission of the offense are not a defense to either charge. To allow presentation of non-shipboard crew firefighting efforts or failures by the Navy to extinguish the blaze creates a trial within trial with immense information that is confusing, an immense waste of time, misleading to the members, and has no probative value on the determination of guilt or innocence. "For evidence to be admitted it must be logically and legally relevant. Thus, while evidence may be logically relevant it may be excluded under M.R.E. 403 as not being legally relevant. *United States v. Bailey*, 55 M.J. 38, 40 (C.A.A.F. 2001).

Case law as to Aggravated Arson Article 126, UCMJ

The accused is charged with one specification of aggravated arson of a structure under Article 126, UCMJ. The elements of this offense are:

- (1) the accused set fire to a certain structure;
- (2) the act was willful and malicious;
- (3) there was a human being in the structure at the time; and
- (4) that the accused knew that there was a human being other than the accused in the structure at the time.

The crux of contention of element (1) is whether the accused versus another person set the fire. The JAGMAN is written from the presumption that the cause of the fire was arson but makes no effort to attempt to identify the arsonist. The defense is certainly contesting identity of the arsonist. In an effort to prove or disprove the first element the JAGMAN is irrelevant. As noted in previous filings the JAGMAN was specifically ordered to avoid impacting or investigating the criminal aspect of the fire.

Firefighting efforts have no bearing on the identity of an arsonist. Firefighting is done independently of whether the accused was the arsonist or not. While there can be different firefighting methods as to specific types of fire they are not relevant in this case. Nor did ATF

However, these actions may be relevant as they can help show fire migration and thus the origin of the fire itself. Civilian Federal Fire arrives about 0830 and fails to integrate with ship's crew, absent one specific meritorious act by a single sailor to attempt to fight down the ramp into Lower Vehicle Storage area.

conclude that firefighting methods impacted its Origin and Cause determination. While the defense's expert at the Article 32 differed as to the exact origin of the fire he still located it in the Lower Vehicle Storage area.

As to element (2), reframed as whether the fire was caused by arson vice another means such as an electrical fire, the JAGMAN is irrelevant. The JAGMAN discusses electrical aspects of the USS Bonhomme Richard (LHD-6) only in relation to an ongoing fire, not its cause or origin. ATF's investigation resulted in an Origin and Cause report authored by a Certified Fire Investigator. The ATF Origin and Cause report is relevant for both sides and involved the testimony of expert witnesses. The conclusion of the ATF report is that the origin of the fire is incendiary, meaning the application of an open flame to another item. The JAGMAN does not go into such technical and scientific detail or reach scientific conclusions beyond citing the ATF Origin and Cause report.

Firefighting efforts have no bearing on the second element. ATF does not believe that firefighting efforts impacted its ability to make an origin and cause determination. During the Article 32 the defense's fire expert Mr. Fouts did not testify that firefighting efforts prevented him from coming to a different an origin and cause determination, even when different than ATF's.

The JAGMAN's overall conclusion that a failure by the Navy to extinguish or contain the fire resulted in the loss of the ship does not extinguish criminal liability for an arsonist. Case law is clear that an arsonist need not intend to destroy an entire structure when a fire is set. *United States v Acevedo-Velez*, 17 M.J. 1 (C.M.A. 1981). Nor is the arsonist's criminal liability limited to what item(s) he intended to burn if the fire exceeds his original design and damages other property. *United States v. Caldwell*, 17 M.J. 8 (C.M.A. 1983). An arsonist who attempts to extinguish his own fire is still responsible for the entire resulting damage even if beyond the original intended scope. There is no abandonment theory or negation of criminal liability post-ignition by subsequent firefighting events by an arsonist. *United States v. Crutcher*, 49 M.J. 236 (C.A.A.F. 1998). Article 126, UCMJ, aggravated arson of a structure is a general intent crime and once the fire was set the accused was guilty irrespective of how the fire was responded to or the amount of damage it inflicted. *United States v. Marks*, 29 M.J. 1 (C.M.A. 1989).

Taken together the case law is clear that the actions, or inactions, or even ineptitude of fire fighters is no defense to arson. Thus the failures of the Navy to contain or extinguish the fire

do not alleviate or eliminate the criminal liability of the accused as to arson. There is a period of time and amount of damage that must be solely attributed to the accused, the initial setting of the fire and its damage close to the area of origin. Even with a perfect response by Navy firefighting the fire would have damaged portions of the ship. As case law demonstrates the amount of damage actually inflicted is not determinative for the elements of arson or guilt of the accused. Once the fire is set and begins to burn the crime is committed. There is always a period of time and amount of damage the accused must solely accept responsibility. The overall proportion of damage and structural liability between the accused and Navy is for sentencing, not for trial on the merits.

Case law as to Hazarding a Vessel, Article 110, UCMJ

The accused is charged with one specification of willfully hazarding a vessel under Article 110, UCMJ. The elements for that offense are:

(1) That the Bonhomme Richard (LHD-6), a vessel of the armed forces, was hazarded by the accused setting a fire onboard the vessel; and

(2) that the accused by his acts willfully and wrongfully caused the USS Bonhomme Richard (LHD-6) to be hazarded.

The crux of this charge are the identity of the person or event that caused the hazard and/or whether subsequent actions or inactions by the Navy caused the hazarding vice the fire. As with the arson analysis the JAGMAN is irrelevant to this specification. The JAGMAN makes no effort to identify an arsonist nor does it provide any substantive analysis as to an alternative source of the fire vice arson. Those questions were answered by the ATF Origin and Cause report, the NCIS criminal investigation and testimony of witnesses. As noted above, firefighting efforts have no logical or legal relevance to the identity of the arsonist.

Hazard means to put a vessel in danger of loss or injury. *US v Parks*, 3 MJ 591, 592 (NMCMR 1977). The danger of fire is sufficient to hazard a vessel even when the fire does not destroy the vessel. "The danger of fire, fully documented by the evidence at trial, is sufficient to uphold at this level the conviction under the charge that appellant's actions hazarded his ship." *United States v. Tusing*, 12 M.J. 608, 609 (NMCCMR 1977). A ship need not be consumed as a raging inferno to be hazarded. To hold otherwise would provide no guidance on when or how a fire is extensive enough or does sufficient damage to constitute hazarding a vessel.

As noted by numerous eyewitness accounts, by the time the ship's crew discovered the fire the vessel had been hazarded. They describe an intense roaring fire that they cannot extinguish. The ship had called for the flying squad to assemble. Sailors were donning firefighting gear for safety and using specialized tools to identify the fire. This isn't a trashcan fire in an office from a cigarette but an over 1,000 degree fire engulfing an entire area of a ship. While the Navy failed to extinguish the fire it didn't fail to notice it quickly, but it was too late, the crime was committed. No lack of firefighting evidence alters the discovery of the fire timeline.

Nor does the actions or inactions of the Navy's response to the fire extinguish criminal liability for hazarding a vessel. In *United States v Buckroth*, 12 MJ 697 (N.M.C.M.R. 1981) the accused poured paint remover into hydraulic oil in an effort to dilute it and thereby causing a loss of steering control. When steaming into port the crew noticed a problem and the ship switched to auxiliary power for navigational control. The criminal purpose of the accused's hazarding was to cause the ship to run into the pier during docking maneuvers to embarrass the Captain. Though the ship did not crash into the pier the accused was still guilty of hazarding.

The *Buckroth* court held that "a person is guilty of Article 110, UCMJ, for merely risking hazarding an item of property quite irrespective of resultant damage." *Id.* at 701. To hold otherwise would require the catastrophic loss of a ship before an accused could be held liable. Hazarding is the danger itself to the ship and not the final result. The result could be conclusive but it is not necessary nor an element. In *Buckroth* the ship was able to recognize the danger and take safe corrective action while the USS Bonhomme Richard (LHD-6) was unsuccessful in fighting its fire, but for purposes of criminal liability it is irrelevant. Once the paint thinner was poured and steering impacted or the fire was lit and items began to burn, each vessel was hazarded. "That the injury done to the aftersteering units did not result in the ship's running aground or losing all navigational capabilities is irrelevant. The crux of an Article 110, UCMJ offense is the hazarding of a vessel either willfully or negligently, not the stranding." *Id.* Just as a vessel need not be stranded to be hazarded it need not be totally consumed in flames.

While hazarding a vessel has historical roots in navigational errors, Article 110, UCMJ has precedence of a deliberate fire pier side being upheld as hazarding a vessel. In *United States v. McAdams*, 42 C.M.R. 911 (NCMR 1970) the accused set fire to mattresses aboard the USS AUSTIN (LPD-4) while berthed at pier aboard Naval Station Norfolk. (This fire did not destroy

or significantly damage the ship which continued in service until 2006.) The Court noted that “the drafters of the Code derive Article 110 from two provisions, which not only punished the hazarding of a vessel when it arose from navigation, but also punished the hazarding of a vessel when it arose from any malicious or willful injury to the vessel. We are certain that the allegations in the specification arose under consideration sufficiently allege an offense under Article 110, UCMJ.” *Id.* at 915.

The fire in *McAdams* was a mattress fire that the accused set to gain recognition and to stay in Norfolk with his girlfriend. *Id.* at 914. His purpose was not to destroy the vessel. As with the current case the Government need not prove an exact motive or original design of what the accused sought to burn. Put another way the Government need not show what the accused hoped to ultimately accomplish by setting the fire. Once the fire was intentionally set the vessel was hazarded. Regardless of how the Navy responded there is a window of time and amount of damage that the accused is solely responsible for and this is enough to meet the elements of hazarding a vessel.

Contributory Negligence

However the response of the Navy’s firefighting efforts to the fire are viewed the Navy was not negligent or contributorily negligent in relation to the accused’s criminal liability. Negligence of third-party after the facts is not a defense to aggravated arson nor is it a defense to hazarding a vessel by setting it afire. With a general denial of arsonist identity and a rejection of the fire’s causation there is no evidence to show that the accused acted in any negligent way in relationship to the fire. (For example, juxtaposed this to a situation where an accused was conducting authorized hot work which caused a fire due to the Navy’s refusal to provide appropriate tools or fire safeguards.) Cases resting on any negligence defense or contributory negligence extenuation require analysis of the accused’s action as compared to others.

Negligence is conduct that involves the creation of substantial and unjustifiable risk of which the person should be aware in view of all circumstances. *United States v. Oxendine*, 55 M.J. 323 (C.A.A.F. 2001). Criminal law is not completely free from the concept of contributory negligence, but in the current case its application is irrelevant. In negligent homicide cases courts have recognized situations where a victim was contributorily negligent in their deaths such as a car crash victim not wearing a seatbelt or a gunshot victim mishandling a firearm. *United States v. Lonergan*, 2000 CCA LEXIS 422 (A.C.C.A. 2000). Courts have also reviewed actions by

victims to determine if their contributory negligence severed any proximate cause relationship between the accused's actions and a victim's death. In *United States v. Cooke*, 18 M.J. 152 (C.M.A. 1984) the court noted that such a scenario as "defendant by his criminal negligence had created a risk of explosion in a building. The deceased, after fully being warned of the danger and urgently requested to stay out, went in and was killed." *Id* at. 154. This case is easily distinguished from any contributory negligence. The USS Bonhomme Richard (LHD-6) was not a person who could become intoxicated, mishandle a firearm, refuse to wear a seatbelt, or work on a car in the middle of the road. It was a structure, a vessel, and was only capable of being acted upon, not acting itself.

The JAGMAN states that the Navy's inability to extinguish or contain the fire caused the ship to be lost. The time and place for this concept of negligence on behalf of a victim (or the Navy) and apportioning blame is at sentencing. "If an act of the deceased was a contributory cause of his death the problem is usually, though not necessarily, one of contributory negligence. Such negligence on the part of the deceased may be considered by the judge, together with all other facts, in fixing the sentence in a particular case, but it has no bearing upon either the responsibility or imputability in the determination of guilt or innocence." *United States v. Oxendine*, 54 M.J. 508 (N.M.C.C.A. 2000).

The JAGMAN, its conclusions, its safety recommendations, its accountability recommendations and the Navy's firefighting response is for a different hearing at a different day. The Navy's inability to extinguish the fire is for sentencing, not the merits. The trial should remain focused on innocence or guilt of the accused and not consider the JAGMAN or non-ship's crew firefighting efforts as they are irrelevant, a distraction, and a waste of time.

**JURY NULLIFICATION ARGUMENTS OR ALLUSIONS TO DETERMINING THE
CASE UPON FACTS NOT IN EVIDENCE SHOULD BE EXCLUDED**

Multiple times the Defense has alluded that the trial of the accused is an effort by the Navy to deflect blame from the Navy's loss of the USS Bonhomme Richard. Such statements have included "a motive to blame SR Mays for what is otherwise an embarrassing mishap" and that the accused is a scapegoat. Such arguments are inappropriate for trial on the merits as it is a thinly veiled attempt at jury nullification and appeals to determine guilt or innocence by facts not in evidence.

Jury nullification arguments – that the case should be decided on issues outside of the presentation of evidence and the law applicable to the case but are paramount and controlling, although unspoken - are inappropriate. There is a distinct difference and methodology between attempting to show bias of a witness, an incomplete law enforcement, improper scientific investigations or testing and appeals to jury nullification. No counsel would ever directly argue for jury nullification but allusions to it should also be forbidden. Such arguments would include “scapegoating” or “deflecting blame from embarrassment” or “there are others who are guilty but are unpunished.”

There is no Constitutional or statutory right to “jury nullification” arguments or instructions to a members panel. Verdicts are based upon the facts presented at trial and the law as instructed to the members with the members applying the law to the facts. Verdicts are not, and should not, be predicated upon moral or political views or facts not in evidence. This applies to both the defense and the Government. “The right to equal justice under law inures to the public as well as to the individual parties to specific litigation, and that right is debased when juries at their caprice ignore the dictates of established precedent and procedure.” *United States v. Hardy*, 46 M.J. 67, 72 (C.A.A.F. 1997).

R.C.M. 502(a)(2) discusses the duties of a member and states “the members of a court-martial shall determine whether the accused is proved guilty ... based upon the evidence and in accordance with the instructions of the military judge.” In *Hardy* the Court held:

we hold that a court-martial panel does not have the right to nullify the lawful instructions of a military judge. To the extent that a court-martial panel has the power to render a decision that does not follow the judge's instructions, it is the collateral consequence of the rules concerning the requirement for a general verdict, the prohibition against a directed guilty verdict, the protection against double jeopardy, and the rules that protect the deliberative process of a court-martial panel. Because there is no "right" of jury nullification, the military judge in this case did not err either in declining to give a nullification instruction or in declining otherwise to instruct the members that they had the power to nullify his instructions on matters of law.

Id. at 75.

Hardy is crystal clear that members must follow the instructions of a military judge and should decide the case based upon the facts and the law. This court must protect the deliberative process but preventing any arguments whose only functions are jury nullification. While no

exhaustive list could be compiled such arguments would be akin to “scapegoating for higher authority,” or deflecting blame for a failed firefighting responses, or punishing a junior sailor in lieu of a senior.

R.C.M. 920(e) (4) also forbids arguments akin to jury nullification. It states that the military judge shall instruct members that “only matters properly before the court-martial may be considered.” For trial on the merits comparisons or referencing other accountability actions or appeals to hold the Navy itself accountable are not matters to be considered by the members. The one person the defense has specifically pointed to as being required to come to a pre-set response blaming the accused – VADM Conn – has refuted this allegation and responded that he had full discretion to make recommendations. The origin and cause determination of the fire wasn’t made by the Navy, or even NCIS, but by the Bureau of Alcohol, Tobacco, Firearms and Explosives, a federal law enforcement agency outside of the Department of the Defense. Multiple checks and balances within the court-martial process – from accuser to PHO – have found probable cause that the accused, not the Navy, committed the offenses. It is a trial of the accused and should remain so.

BURDEN

As the ultimate proponent of such evidence the burden of proof rests upon the Defense to show that any written portion of the JAGMAN is admissible under the Military Rules of Evidence or that of non-USS Bonhomme Richard crew firefighting efforts are relevant to the determination of guilt or innocence on the merits per M.R.E.401, 402, and 403.

The standard as to any factual issue necessary to resolve this motion is to a preponderance of the evidence. RCM 905(c) (1).

EVIDENCE

1. Testimony of ATF Special Agent Matt Beals

Previously submitted materials

2. Convening Order for BHR JAGMAN dtd 4 Aug 2020
3. Modification of Convening Order for BHR JAGMAN dtd 15 Sept 2020
4. BHR JAGMAN section entitled “Fire Origins”
5. Affidavit of VADM Scott Conn, USN dtd 13 May 2022

New Materials

6. Article 32 testimony of PS3 Kenji Velasco, USN
7. Article 32 testimony of BM2 Beau Benson, USN
8. Statement of ENC Brian Six, USN
9. Statement of DC2 Jeffrey Garvin, USN
10. Photograph of Lower Vehicle Storage Unit post-fire

RELIEF REQUESTED

The Court should exclude introduction of any written portion of the BHR JAGMAN, exclude evidence of non-crew firefighting efforts, and forbid any arguments or allusions to jury nullification.


JASON L. JONES
CAPT, JAGC, USN

I certify that I have served a true copy via e-mail of the above on the Court and Defense Counsel on 3 August 2022.


JASON L. JONES
CAPT, JAGC, USN