

EXHIBIT B

Arnold & Porter

December 15, 2025

BY EMAIL

Hon. John Phelan
Secretary of the Navy
1000 Navy Pentagon
Washington, DC 20350

Dear Mr. Secretary:

We represent Senator Mark Kelly.

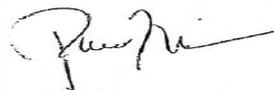
On November 18, 2025, Senator Kelly and five other members of Congress posted a video in which they reiterated the duty of members of the armed forces to refuse illegal orders. Despite Secretary Hegseth's own repeated public articulation in 2016 of this same fundamental principle of military law, he directed you on November 25 to "review" Senator Kelly's "comments" and provide a "brief" by December 10. Secretary Hegseth's contemporaneous statements, as well as official statements from the Department of Defense, made clear that you were to consider recalling Senator Kelly to active duty for the purpose of a court-martial, and challenging the rank at which he retired.

We now understand from public reporting that you have completed your assignment and that you have submitted your brief to the Department of Defense's Office of General Counsel for "legal review and input."

To be clear: there is no legitimate basis for any type of proceeding against Senator Kelly, and any such effort would be unconstitutional and an extraordinary abuse of power. If the Executive Branch were to move forward in any forum—criminal, disciplinary, or administrative—we will take all appropriate legal action on Senator Kelly's behalf to halt the Administration's unprecedented and dangerous overreach.

Senator Kelly flew thirty-nine combat missions as a Naval Aviator and four space flights as a NASA astronaut. The people of Arizona have elected him twice as their United States Senator. He has dedicated his life and his career to defending our country and its Constitution. He will not stop doing so now.

Sincerely,



Paul J. Fishman

cc: Earl G. Matthews, General Counsel, Department of Defense;
Timothy Dill, Performing the Duties of the General Counsel, Department of the Navy