

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME (FIRST)
)	
v.	)	Before Panel 2
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	7 February 2025
)	
<i>Appellant.</i>)	

TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for his first enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **26 April 2025**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 42 days have elapsed. On the date requested, 120 days will have elapsed.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested first enlargement of time.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 7 February 2025.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
Airman First Class (E-3)	)	ACM 40751
ROBERT A. PHILPOT, III, USAF,)	
<i>Appellant.</i>	)	Panel No.2
)	

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

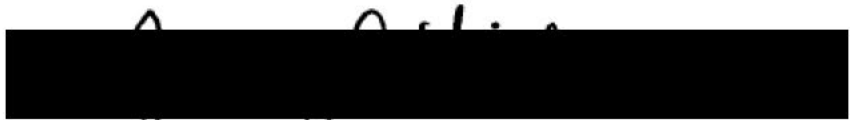
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



JENNY A. LIABENOW, Lt Col, USAF
Director of Operations
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 11 February 2025.



JENNY A. LIABENOW, Lt Col, USAF
Director of Operations
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

**UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS**

UNITED STATES	)	No. ACM 40751
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Robert A. PHILPOT III)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 2

On 7 February 2025, counsel for Appellant submitted a Motion for Enlargement of Time (First) requesting an additional 60 days to submit Appellant’s assignments of error. The Government opposes the motion.

The court has considered Appellant’s motion, the Government’s opposition, this court’s Rules of Practice and Procedure, and applicable case law.

Accordingly, it is by the court on this 7th day of February, 2025,

ORDERED:

Appellant’s Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error **not later than 26 April 2025**.

Counsel should not rely on any subsequent requests for enlargement of time being granted. Each request will be considered on its merits.

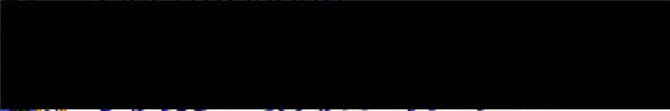
Appellant’s counsel is advised that any subsequent motions for enlargement of time shall include, in addition to the matters required under this court’s Rules of Practice and Procedure, statements as to: (1) whether Appellant was advised of Appellant’s right to a timely appeal, (2) whether Appellant was provided an update of the status of counsel’s progress on Appellant’s case, (3) whether Appellant was advised of the request for an enlargement of time, and (4) whether Appellant agrees with the request for an enlargement of time. Counsel is not required to re-address item (1) in each subsequent motion for enlargement of time if counsel previously replied in the affirmative.

Counsel may request, and the court may order *sua sponte*, a status conference to facilitate timely processing of this appeal. *See* A. F. Ct. Crim. App. R. 23.4.

Appellant's counsel is further advised that any future requests for enlargements of time that, if granted, would expire more than 330 days after docketing, will not be granted absent exceptional circumstances.



FOR THE COURT



OLGA STANFORD, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION TO ATTACH
<i>Appellee,</i>	)	APPENDIX
)	
v.	)	Before Panel 2
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force.)	
<i>Appellant.</i>	)	12 February 2025

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rules 23.3(b) of this Court’s Rules of Practice and Procedure, Appellant moves to attach the Appendix to this motion to the record of trial. The Appendix is a declaration from Lieutenant Colonel Allen Abrams, Deputy Chief of the Appellate Defense Division. The declaration outlines the manning and workload challenges facing the Appellate Defense Division. This declaration is relevant and necessary for this Court’s reconsideration of its Order dated 7 February 2025.

WHEREFORE, Appellant requests this Court grant this motion to attach.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 12 February 2025.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES <i>Appellee,</i>	)	MOTION FOR RECONSIDERATION
)	
)	
v.	)	Before Panel No. 2
)	
Airman First Class (E-3)	)	Case No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force,)	
<i>Appellant.</i>	)	12 February 2025

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 31 of the Joint Rules of Appellate Procedure, effective 17 May 2024, Appellant hereby moves to reconsider the part of its order, dated 7 February 2025, requiring a showing of exceptional circumstances before granting enlargements of time that would expire more than 330 days after docketing.¹ Order at 2, *United States v. Philpot*.

This Court’s rules state that any motion for enlargement of time be supported by “good cause.” A.F. CT. CRIM. APP. R. 23.3(m)(1). Underlying both this rule and Appellant’s enlargement of time (EOT) are two important interests: (1) the powers of this Court “to issue orders to counsel to ensure the timely progress of cases,” *United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008), and (2) the requirement under Article 70, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 870 (2018), to afford Appellant adequate representation by counsel. In recognizing that balance, the United States Court of Appeals for the Armed Forces (CAAF) articulated a variety of tools this Court might employ, to include inquiring as to the cause of the delay through a status conference

¹ While this Order is dated 7 February 2025, this Court did email this Order to undersigned counsel until 12 February 2025, five calendar days after it was apparently issued.

or show cause order, as well as “asking the Judge Advocate General to direct the assignment of additional or substitute counsel.” *Roach*, 66 M.J. at 418. These are predicated on a triggering event: “when counsel appears to be unresponsive.” *Id.*

This Court’s order requiring a showing of exceptional circumstances is premature and does not account for the circumstances driving delays in other cases before this Court. While likely well-intentioned as a means of managing expectations of counsel, the Court’s order was issued without any indication of “unresponsive[ness]” by undersigned counsel. *Id.* Moreover, undersigned counsel has not been unresponsive, filing a timely motion seeking an enlargement of time resulting in the order at issue.

Undersigned counsel is willing to gain the necessary familiarity with the record to submit assignments of error prior to the filing deadline but, as can be seen by the Declaration of the Appellate Defense Division’s Deputy Chief, is impeded in doing so for reasons that amount to staffing shortages and, in turn, high workload demands on undersigned counsel. *See Appendix.* at 1-6. The crux of these workload issues is that the Appellate Defense Division’s workload is up, but its staff to carry out that work remains largely unchanged. This is made even more challenging by the Government’s recent restriction of this office’s reserve personnel.

The Appellate Defense Division has the highest volume of cases pending initial briefing before this Court since 2017, but the demands on the Division’s counsel are greater in today’s cases because records of trial now are between twenty-five and thirty-five percent longer than those of 2017, based solely on their transcript pages. *Id.* at 1-4. The demand placed by this heightened amount of review per case has been compounded by a higher volume of clients, with the 2022 broadening of direct appeals in Article 65, UCMJ, requiring record-review and consultation for each eligible client, and with those direct appeals docketed with this Court

amounting to approximately only forty percent of this pool of clients. *Id.* Over this same time since the December 2022 law change, the Appellate Defense Division faced a high volume of cases before the CAAF, a high volume of interlocutory appeals and writ-petitions, and multiple time-sensitive petitions to the United States Supreme Court. *Id.* All three of these classes of cases are particularly impactful on an attorney's ability to work cases before this Court because of the timelines involved, with interlocutory appeals taking priority and with cases appealed to the CAAF and the Supreme Court subject to strict timeline requirements. 10 U.S.C. §§ 806b(e)(3)(B), 862(b), 867(b); 28 U.S.C. § 2101(c). The workload demands before the Supreme Court are only increasing, with every appellant seeking review at the CAAF now eligible to petition the Supreme Court. *Id.* at 5-6. Relative to the CAAF and the Supreme Court, this Court has substantially greater flexibility to adjust its deadlines and should do so here. *Compare United States v. Moreno*, 63 M.J. 129, 142 (C.A.A.F. 2006) (setting eighteen months post-docketing with the Court of Criminal Appeals as a trigger for analysis but declining to make it dispositive in light of the possibility of reasonable delay), *with* 10 U.S.C. 867(b) *and* 28 U.S.C. § 2101(c).


Good cause for doing so is even more evident in light of the Appellate Defense Division's multi-faceted efforts to mitigate its workload strain. Multiple long-term absences were filled through support by reservists trained for and experienced in appellate practice. Appendix at 5-6. In 2023, the Appellate Defense Division sought a legislative change to alleviate its workload but was unsuccessful. *Id.* at 6. Also in 2023, the Appellate Defense Division requested eight additional active-duty personnel. *Id.* One civilian has been permanently provided, starting work on 16 December 2024. *Id.* at 1, 6. Assignment of one additional active-duty counsel is scheduled for 2025, but it is unclear whether that is intended as a permanent additional billet. *Id.* at 6. In 2024, the Appellate Defense Division again requested eight additional active-duty personnel, with action

pending on that request. *Id.* As of the start of 2025, the Appellate Defense Division has an advertisement for long-term reserve support in an effort to move cases. *Id.*

Having been tasked with doing substantially more work with the same resources, undersigned counsel's docket is such that the ordinary workload precludes—and has precluded—undersigned counsel from finalizing review and briefing of Appellant's case. That workload is to a degree that it may warrant scrutiny of what The Judge Advocate General is doing to ameliorate it. *See Roach*, 66 M.J. at 418; *Moreno*, 63 M.J. at 137. Specific to this motion for reconsideration, because Appellant desires undersigned counsel to review Appellant's case and advocate accordingly, requested extensions on Appellant's behalf should be assessed for good cause only. In light of undersigned counsel's workload and the workload of counsel across the Appellate Defense Division, assessment of a requested extension of time based on a standard requiring a showing of exceptional circumstances risks diluting the import of this Court's order or depriving Appellant of the right to counsel without meeting the requirements set out in *Roach*. 66 M.J. at 418; *see also Douglas v. California*, 372 U.S. 353, 357 (1963) (stressing the importance of the right to counsel in an indigent's first appeal of right).

This Court should grant this motion, reconsider the part of its order requiring a showing of exceptional circumstances before granting enlargements of time that would expire more than 330 days after docketing, and assess future motions for enlargements of time for good cause.

Respectfully Submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews, MD 20762

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were delivered by e-mail to the Court and served on the Government Trial and Appellate Operations Division on 12 February 2025.



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
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Joint Base Andrews, MD 20762
(240) 612-4770

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES <i>Appellee,</i>	)	MOTION FOR RECONSIDERATION <i>EN BANC</i>
)	
)	
v.	)	Before Panel No. 2
)	
Airman First Class (E-3)	)	Case No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force,)	
<i>Appellant.</i>	)	20 February 2025

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Appellant hereby moves this Court to reconsider *en banc* part of its interlocutory order, dated 5 February 2025. JT. CT. CRIM. APP. R. 27; A.F. CT. CRIM. APP. R. 23.1(b), 31.1, and 31.3. Specifically, Appellant moves this Court reconsider the part of its order which requires a showing of exceptional circumstances before granting enlargements of time that would expire more than 330 days after docketing.¹ Order at 2, *United States v. Philpot*. Appellant previously moved for reconsideration of this Court’s order, but that reconsideration was denied without explanation by one panel of this Court.

I. Reconsideration is appropriate because the exceptional circumstances requirement ignores the circumstances driving current delays in Air Force appellate processing.

This Court’s rules state that any motion for enlargement of time be supported by “good cause.” A.F. CT. CRIM. APP. R. 23.3(m)(1). Underlying both this rule and Appellant’s enlargement of time (EOT) are two important interests: (1) the powers of this Court “to issue orders to counsel to ensure the timely progress of cases,” *United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008),

¹ While this Order is dated 7 February 2025, this Court did email this Order to undersigned counsel until 12 February 2025, five calendar days after it was apparently issued.

and (2) the requirement under Article 70, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 870 (2018), to afford Appellant adequate representation by counsel. In recognizing that balance, the United States Court of Appeals for the Armed Forces (CAAF) articulated a variety of tools this Court might employ, to include inquiring as to the cause of the delay through a status conference or show cause order, as well as “asking the Judge Advocate General to direct the assignment of additional or substitute counsel.” *Roach*, 66 M.J. at 418. These are predicated on a triggering event: “when counsel appears to be unresponsive.” *Id.*

This Court’s order requiring a showing of exceptional circumstances is premature and does not account for the circumstances driving delays in other cases before this Court. While likely well-intentioned as a means of managing expectations of counsel, the Court’s order was issued without any indication of “unresponsive[ness]” by undersigned counsel. *Id.* Moreover, undersigned counsel has not been unresponsive, filing a timely motion seeking an enlargement of time resulting in the order at issue.

Undersigned counsel is willing to gain the necessary familiarity with the record to submit assignments of error prior to the filing deadline but, as can be seen by the Declaration of the Appellate Defense Division’s Deputy Chief, is impeded in doing so for reasons that amount to staffing shortages and, in turn, high workload demands on undersigned counsel. *See Appendix.* at 1-6. The crux of these workload issues is that the Appellate Defense Division’s workload is up, but its staff to carry out that work remains largely unchanged. This is made even more challenging by the Government’s recent restriction of this office’s reserve personnel.

The Appellate Defense Division has the highest volume of cases pending initial briefing before this Court since 2017, but the demands on the Division’s counsel are greater in today’s cases because records of trial now are between twenty-five and thirty-five percent longer than

those of 2017, based solely on their transcript pages. *Id.* at 1-4. The demand placed by this heightened amount of review per case has been compounded by a higher volume of clients, with the 2022 broadening of direct appeals in Article 65, UCMJ, requiring record-review and consultation for each eligible client, and with those direct appeals docketed with this Court amounting to approximately only forty percent of this pool of clients. *Id.* Over this same time since the December 2022 law change, the Appellate Defense Division faced a high volume of cases before the CAAF, a high volume of interlocutory appeals and writ-petitions, and multiple time-sensitive petitions to the United States Supreme Court. *Id.* All three of these classes of cases are particularly impactful on an attorney's ability to work cases before this Court because of the timelines involved, with interlocutory appeals taking priority and with cases appealed to the CAAF and the Supreme Court subject to strict timeline requirements. 10 U.S.C. §§ 806b(e)(3)(B), 862(b), 867(b); 28 U.S.C. § 2101(c). The workload demands before the Supreme Court are only increasing, with every appellant seeking review at the CAAF now eligible to petition the Supreme Court. *Id.* at 5-6. Relative to the CAAF and the Supreme Court, this Court has substantially greater flexibility to adjust its deadlines and should do so here. *Compare United States v. Moreno*, 63 M.J. 129, 142 (C.A.A.F. 2006) (setting eighteen months post-docketing with the Court of Criminal Appeals as a trigger for analysis but declining to make it dispositive in light of the possibility of reasonable delay), *with* 10 U.S.C. 867(b) *and* 28 U.S.C. § 2101(c).

Good cause for doing so is even more evident in light of the Appellate Defense Division's multi-faceted efforts to mitigate its workload strain. Multiple long-term absences were filled through support by reservists trained for and experienced in appellate practice. Appendix at 5-6. In 2023, the Appellate Defense Division sought a legislative change to alleviate its workload but was unsuccessful. *Id.* at 6. Also in 2023, the Appellate Defense Division requested eight additional

active-duty personnel. *Id.* One civilian has been permanently provided, starting work on 16 December 2024. *Id.* at 1, 6. Assignment of one additional active-duty counsel is scheduled for 2025, but it is unclear whether that is intended as a permanent additional billet. *Id.* at 6. In 2024, the Appellate Defense Division again requested eight additional active-duty personnel, with action pending on that request. *Id.* As of the start of 2025, the Appellate Defense Division has an advertisement for long-term reserve support in an effort to move cases. *Id.*

Having been tasked with doing substantially more work with the same resources, undersigned counsel's docket is such that the ordinary workload precludes—and has precluded—undersigned counsel from finalizing review and briefing of Appellant's case. That workload is to a degree that it may warrant scrutiny of what The Judge Advocate General is doing to ameliorate it. *See Roach*, 66 M.J. at 418; *Moreno*, 63 M.J. at 137. Specific to this motion for reconsideration, because Appellant desires undersigned counsel to review Appellant's case and advocate accordingly, requested extensions on Appellant's behalf should be assessed for good cause only. In light of undersigned counsel's workload and the workload of counsel across the Appellate Defense Division, assessment of a requested extension of time based on a standard requiring a showing of exceptional circumstances risks diluting the import of this Court's order or depriving Appellant of the right to counsel without meeting the requirements set out in *Roach*. 66 M.J. at 418; *see also Douglas v. California*, 372 U.S. 353, 357 (1963) (stressing the importance of the right to counsel in an indigent's first appeal of right).


II. *En banc* reconsideration is necessary.

En banc reconsideration is necessary for at least three reasons. First, as noted above, the requirement to demonstrate exceptional circumstances ignores this Court's rules and clearly established precedent. This Court should decide *en banc* whether the exceptional circumstances

requirement is in conflict with applicable law and its rules. Second, a dramatically increasing workload with no additional resources has stretched the appellate defense division to its breaking point. Appendix. Despite repeated pleas to the Government for additional manpower, our manpower has remained the same. Appendix. Similarly, pleas to this Court for patience have been ignored; at times, appellate defense counsel have been met with outright hostility. *See, e.g.*, Order, *United States v. Gibbs*, dated 22 November 2024 (referring to counsel’s diligent effort as “sanguine”). This Court should decide *en banc* whether the exceptional circumstances requirement—which creates a fantastic and unrealistic burden on the appellate defense division—should be applied. Third, the exceptional circumstances requirement pits different panels of this Court against one another. Often, this leads to counsel prioritizing newer cases over older ones to satisfy panels that impose this requirement. This creates a conflict not only between panels, but between clients on counsels’ dockets.

This Court should grant this motion, reconsider the part of its order requiring a showing of exceptional circumstances before granting enlargements of time that would expire more than 330 days after docketing, and assess future motions for enlargements of time for good cause.

Respectfully Submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews, MD 20762

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were delivered by e-mail to the Court and served on the Government Trial and Appellate Operations Division on 20 February 2025.



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews, MD 20762
(240) 612-4770

**UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS**

UNITED STATES	)	No. ACM 40751
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Robert A. PHILPOT III)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 2

On 20 February 2025, Appellant moved for this court to reconsider its order of 5 February 2025 *en banc*. Appellant specifically “moves this Court reconsider the part of its order which requires a showing of exceptional circumstances before granting enlargements of time that would expire more than 330 days after docketing.” Appellant previously moved for panel reconsideration of this court’s order, which the court denied on 20 February 2025. The Government did not file opposition to the motion.

In accordance with Rule 27(c) of The Joint Rules of Appellate Procedure for Courts of Criminal Appeals, Appellee’s motion was transmitted to each judge of the court who was present for duty and not disqualified from participation due to a conflict of interest. No participating judge requested a vote to determine whether the court should reconsider the opinion *en banc*.

Accordingly, it is by the court on this 11th day of February, 2025,
ORDERED:

Appellant’s Motion for Reconsideration *En Banc* is **DENIED**.



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SECOND)
)	
v.	)	Before Panel 2
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	11 April 2025
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his second enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **26 May 2025**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 105 days have elapsed. On the date requested, 150 days will have elapsed.

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures, confinement for 40 months, and a dishonorable discharge. R. at 166. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

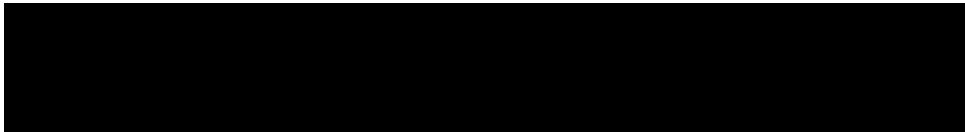
The ROT is electronic consisting of 1,170 pages. The ROT includes consisting of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant has not specifically consented to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 11 April 2025.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
Airman First Class (E-3)	)	Before Panel No. 2
ROBERT A. PHILPOT III,	)	No. ACM 40751
United States Air Force,)	
<i>Appellant.</i>	)	15 April 2025

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 15 April 2025.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

**UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS**

UNITED STATES	)	No. ACM 40751
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Robert A. PHILPOT III)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 2

On 11 April 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Second) requesting an additional 30 days to submit Appellant’s assignments of error. The Government generally opposes the motion.

In this motion, Appellant’s counsel states Appellant was tried 9-10 October 2024 and his sentence to confinement was for 40 months. He further states the convening authority took no action on the sentence. Appellant’s counsel also states “Appellant is not confined.”

Additionally, Appellant’s counsel states Appellant has been advised of his right to a timely appeal and of “this request for enlargement of time,” has been apprised of Appellant’s counsel’s progress on his case, but “has not specifically consented to this enlargement of time.” We understand this to mean Appellant’s counsel requests this court grant him an extension of time over Appellant’s wishes.

The court has considered Appellant’s motion, the Government’s opposition, this court’s Rules of Practice and Procedure, and applicable case law.

Accordingly, it is by the court on this 16th day of April, 2025,

ORDERED:

Appellant’s Motion for Enlargement of Time (Second) is **GRANTED**. Appellant shall file any assignments of error **not later than 26 May 2025**.

It is further ordered:

Should Appellant’s counsel move for a third enlargement of time, he must explain why Appellant is not confined or clarify that Appellant is confined.

Should Appellant's counsel move for a third enlargement of time, he must first make Appellant aware of the request and, if Appellant does not consent, explain why the request nevertheless should be granted.



FOR THE COURT



OLGA STANFORD, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (THIRD)
)	
v.	)	Before Panel 2
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	18 May 2025
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his third enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **25 June 2025**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 142 days have elapsed. On the date requested, 180 days will have elapsed.

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures, confinement for 40 months, and a dishonorable discharge. R. at 166. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is confined.¹

¹ Appellant’s Motion for EOT 2, dated 11 April 2025, erroneously stated that Appellant was not confined. This was inaccurate. Appellant is confined.

The ROT is electronic consisting of 1,170 pages. The ROT includes consisting of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant consents to this enlargement of time.²

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

² In a 16 April 2025 Order, this Court implied that undersigned counsel had not made Appellant aware of previous motions for enlargement of time. *See* Order, dated 16 April 2025, at 2 (“Should Appellant’s counsel move for a third enlargement of time, he must first make Appellant aware of the request.”). Appellant consents to disclose an attorney-client communication wherein he *was* made aware of the previous enlargements of time.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 18 May 2025.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 2
Airman First Class (E-3))	
ROBERT A. PHILPOT, III,	)	No. ACM 40751
United States Air Force.)	
<i>Appellant</i>	)	20 May 2025

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4809

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 20 May 2025.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4809

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FOURTH)
)	
v.	)	Before Panel 2
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	16 June 2025
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his fourth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **25 July 2025**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 171 days have elapsed. On the date requested, 210 days will have elapsed.

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures, confinement for 40 months, and a dishonorable discharge. R. at 166. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is confined.

The ROT is electronic consisting of 1,170 pages. The ROT includes consisting of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages.

Undersigned counsel is assigned 33 cases, 20 cases are pending initial AOE's before this Court. One case before the Court of Appeals for the Armed Forces (CAAF) takes priority over this case: *United States v. Washington*. The reply brief is due to the CAAF on 27 June 2025. Undersigned counsel has completed research on the reply brief.

In addition, the following cases with this Court have priority over the instant case.

- 1) *United States v. Augustin*, ACM 40655 – The record of trial is eight volumes consisting of 10 prosecution exhibits, seven defense exhibits, 24 appellate exhibits, and one court exhibit. The transcript is 1,201 pages long. Undersigned counsel has not begun a review of this record. However, civilian co-counsel has completed a review of the record.
- 2) *United States v. Ehly*, ACM 23004 – The record of trial is three volumes consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages long. Undersigned counsel has completed a review of the record and has begun drafting an AOE brief.
- 3) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has not begun a review of this record.
- 4) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits and 27 appellate exhibits. The transcript is 118 pages long.

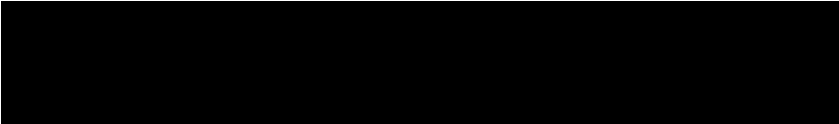
5) *United States v. Dawson*, ACM 40755 – The record of trial is electronic, containing 1,992 pages. This includes 11 prosecution exhibits, eight defense exhibits, and 40 appellate exhibits. The transcript is 1,131 pages.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant consents to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 16 June 2025.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman First Class (E-3)	)	Before Panel No. 2
ROBERT A. PHILPOT III, USAF,)	
<i>Appellant.</i>	)	No. ACM 40751
)	
	)	18 June 2025
)	

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



JOCELYN Q. WRIGHT, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 18 June 2025.



JOCELYN Q. WRIGHT, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FIFTH)
)	
v.	)	Before Panel 2
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	15 July 2025
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his fifth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **24 August 2025**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 200 days have elapsed. On the date requested, 240 days will have elapsed.

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures, confinement for 40 months, and a dishonorable discharge. R. at 166. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is confined.

The ROT is electronic consisting of 1,170 pages. The ROT includes consisting of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages.

Undersigned counsel is assigned 34 cases, 21 cases are pending initial AOE's before this Court. Three cases before the United States Supreme Court take priority over this case: (1) *United States v. Pulley*; (2) *United States v. Beyer*; and (3) *United States v. Covitz*. The petitions for writ of certiorari in the aforementioned cases are due in late September and early October. Undersigned counsel has not begun work on these petitions. Additionally, two cases before the Court of Appeals for the Armed Forces take priority over this case: (1) *United States v. Gibbs*; and (2) *United States v. Barlow*. Undersigned counsel has begun research and drafting for the supplement brief in *Gibbs*, but has not yet begun work on *Barlow*.

In addition, the following cases with this Court have priority over the instant case.

- 1) *United States v. Augustin*, ACM 40655 – The record of trial is eight volumes consisting of 10 prosecution exhibits, seven defense exhibits, 24 appellate exhibits, and one court exhibit. The transcript is 1,201 pages long. Undersigned and civilian co-counsel have completed a review of the record and identified several errors. Additionally, undersigned counsel has begun research on several identified errors.
- 2) *United States v. Ehly*, ACM 23004 – The record of trial is three volumes consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages long. The Government's Answer is due on 7 August, with any reply due on 14 August.
- 3) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has not begun a review of this record.

- 4) *United States v. Sawyer*, ACM 40670 – The record of trial is five volumes consisting of 10 prosecution exhibits, 16 defense exhibits, and 25 appellate exhibits. The transcript is 245 pages long. Undersigned counsel has completed a review of the record and has identified several potential errors. Undersigned counsel has begun research on those errors.
- 5) *United States v. Hon*, ACM 40671 – The record of trial is six volumes long consisting of 14 prosecution exhibits, seven defense exhibits, 28 appellate exhibits, and one court exhibit. The transcript is 483 pages long.
- 6) *United States v. Parra Peralta*, ACM 40684 – The record of trial is eight volumes long consisting of 13 prosecution exhibits, 13 defense exhibits, 67 appellate exhibits, and one court exhibit. The transcript is 744 pages long.
- 7) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits and 27 appellate exhibits. The transcript is 118 pages long.
- 8) *United States v. Dawson*, ACM 40755 – The record of trial is electronic, containing 1,992 pages. This includes 11 prosecution exhibits, eight defense exhibits, and 40 appellate exhibits. The transcript is 1,131 pages.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.

(4) Appellant consents to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 15 July 2025.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME – OUT OF TIME
)	
Airman First Class (E-3)	)	Before Panel No. 2
ROBERT A. PHILPOT III, USAF,)	
<i>Appellant.</i>	)	No. ACM 40751
)	
	)	21 July 2025
)	

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time Out of Time to file an Assignment of Error in this case. This opposition is being filed out of time due to administrative oversight.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4804

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 21 July 2025.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4804

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SIXTH)
)	
v.	)	Before Panel 2
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	15 August 2025
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his sixth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **23 September 2025**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 231 days have elapsed. On the date requested, 270 days will have elapsed.

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures, confinement for 40 months, and a dishonorable discharge. R. at 166. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is confined.

The ROT is electronic consisting of 1,170 pages. The ROT includes consisting of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages.

Undersigned counsel is assigned 27 cases, 12 cases are pending initial AOE's before this Court. Four cases before the United States Supreme Court take priority over these cases: (1) *United States v. Beyer*; (2) *United States v. Covitz*; (3) *United States v. Pulley*; and (4) *United States v. Arizpe*. Undersigned counsel has not begun work on any of these petitions. Additionally, one case before the Court of Appeals for the Armed Forces (CAAF) takes priority over this case: *United States v. Barlow*. Research is complete in that case.

In addition, the following cases with this Court have priority over the instant case.

- 1) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. Undersigned counsel is awaiting the Government's answer in this case.
- 2) *United States v. Augustin*, ACM 40655 – The record of trial is eight volumes consisting of 10 prosecution exhibits, seven defense exhibits, 24 appellate exhibits, and one court exhibit. The transcript is 1,201 pages long. Undersigned counsel will be filing an initial AOE brief today.
- 3) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has not begun a review of this record.

- 4) *United States v. Sawyer*, ACM 40670 – The record of trial is five volumes consisting of 10 prosecution exhibits, 16 defense exhibits, and 25 appellate exhibits. The transcript is 245 pages long. Undersigned counsel is presently drafting an initial AOE brief.
- 5) *United States v. Hon*, ACM 40671 – The record of trial is six volumes long consisting of 14 prosecution exhibits, seven defense exhibits, 28 appellate exhibits, and one court exhibit. The transcript is 483 pages long.
- 6) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits and 27 appellate exhibits. The transcript is 118 pages long.
- 7) *United States v. Parra Peralta*, ACM 40684 – The record of trial is eight volumes long consisting of 13 prosecution exhibits, 13 defense exhibits, 67 appellate exhibits, and one court exhibit. The transcript is 744 pages long.
- 8) *United States v. Dawson*, ACM 40755 – The record of trial is electronic, containing 1,992 pages. This includes 11 prosecution exhibits, eight defense exhibits, and 40 appellate exhibits. The transcript is 1,131 pages.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant consents to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 15 August 2025.

Respectfully submitted,



Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

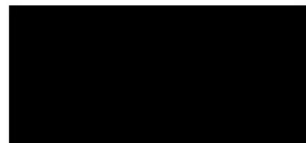
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman First Class (E-3)	)	Before Panel No. 2
ROBERT A. PHILPOT III, USAF,)	
<i>Appellant.</i>	)	No. ACM 40751
)	
	)	19 August 2025
)	

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4804

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 19 August 2025.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4804

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME(SEVENTH)
)	
v.	)	Before Panel 2
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	14 September 2025
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his seventh enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **23 October 2025**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 261 days have elapsed. On the date requested, 300 days will have elapsed.

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures, confinement for 40 months, and a dishonorable discharge. R. at 166. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is confined.

The ROT is electronic consisting of 1,170 pages. The ROT includes consisting of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages.

Undersigned counsel is assigned 27 cases, 11 cases are pending initial AOE's before this Court. Four cases before the United States Supreme Court take priority over these cases: (1) *United States v. Beyer*; (2) *United States v. Covitz*; and (3) *United States v. Pulley*. Undersigned counsel has not begun work on any of these petitions. Additionally, one case before the Court of Appeals for the Armed Forces (CAAF) takes priority over this case: *United States v. Barlow*. Research is complete in that case. However, counsel is currently interviewing witnesses based on newly discovered evidence.

In addition, the following cases with this Court have priority over the instant case.

- 1) *United States v. Augustin*, ACM 40655 – The record of trial is eight volumes consisting of 10 prosecution exhibits, seven defense exhibits, 24 appellate exhibits, and one court exhibit. The transcript is 1,201 pages long. The Government's Answer is due on 29 September 2025, with any reply due on 6 October 2025.
- 2) *United States v. Sawyer*, ACM 40670 – The record of trial is five volumes consisting of 10 prosecution exhibits, 16 defense exhibits, and 25 appellate exhibits. The transcript is 245 pages long. The Government's Answer is due on 29 September 2025, with any reply due on 6 October 2025.
- 3) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has not begun a review of this record.

- 4) *United States v. Hon*, ACM 40671 – The record of trial is six volumes long consisting of 14 prosecution exhibits, seven defense exhibits, 28 appellate exhibits, and one court exhibit. The transcript is 483 pages long.
- 5) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits and 27 appellate exhibits. The transcript is 118 pages long.
- 6) *United States v. Parra Peralta*, ACM 40684 – The record of trial is eight volumes long consisting of 13 prosecution exhibits, 13 defense exhibits, 67 appellate exhibits, and one court exhibit. The transcript is 744 pages long.
- 7) *United States v. Dawson*, ACM 40755 – The record of trial is electronic, containing 1,992 pages. This includes 11 prosecution exhibits, eight defense exhibits, and 40 appellate exhibits. The transcript is 1,131 pages.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant consents to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 14 September 2025.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES'
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman First Class (E-3)	)	Before Panel No. 2
ROBERT A. PHILPOT III, USAF,)	
<i>Appellant.</i>	)	No. ACM 40751
)	
	)	16 September 2025
)	

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 300 days in length. Appellant's nearly year long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two thirds of the 18 month standard for this Court to issue a decision, which only leaves about 8 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not completed review of the record of trial at this late stage of the appellate process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4804

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 16 September 2025.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4804

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (EIGHTH)
)	
v.	)	Before Panel 2
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	14 October 2025
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his eighth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **22 November 2025**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 291 days have elapsed. On the date requested, 330 days will have elapsed.

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures, confinement for 40 months, and a dishonorable discharge. R. at 166. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is confined.

The ROT is electronic consisting of 1,170 pages. The ROT includes consisting of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages.

Undersigned counsel is assigned 27 cases, 9 cases are pending initial AOE's before this Court. Three cases before the United States Supreme Court take priority over this case: (1) *United States v. Pulley*; (2) *United States v. Beyer*; and (3) *United States v. Covitz*. The petitions in the aforementioned cases were due to the Supreme Court in late September and early October. However, undersigned counsel obtained an extension in each case due to the circumstances underlying the Court of Appeals for the Armed Forces (CAAF) case, *United States v. Barlow*, discussed below.

Undersigned counsel completed research for the *Barlow* petition for grant of review over a month ago and had begun drafting the brief. However, undersigned counsel uncovered exculpatory evidence not available to that appellant at trial or the Air Force Court. Undersigned counsel conducted considerable research and witness interviews, and eventually made four filings to the CAAF in that case yesterday. That appellant asked the CAAF to remand the case to this Court for factfinding and consideration of issues involving the discovery violation. Should remand occur, this case will continue to take priority over the instant one.

Further, the following cases before this Court take priority over the instant case:

- 1) *United States v. Augustin*, ACM 40655 – The record of trial is eight volumes consisting of 10 prosecution exhibits, seven defense exhibits, 24 appellate exhibits, and one court exhibit. The transcript is 1,201 pages long. The Government filed its answer, and this appellant sought an enlargement to file the reply. If granted, the reply would be due on 3 November 2025.

- 2) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has not begun a review of this record.
- 3) *United States v. Hon*, ACM 40671 – The record of trial is six volumes long consisting of 14 prosecution exhibits, seven defense exhibits, 28 appellate exhibits, and one court exhibit. The transcript is 483 pages long.
- 4) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits and 27 appellate exhibits. The transcript is 118 pages long.
- 5) *United States v. Parra Peralta*, ACM 40684 – The record of trial is eight volumes long consisting of 13 prosecution exhibits, 13 defense exhibits, 67 appellate exhibits, and one court exhibit. The transcript is 744 pages long.
- 6) *United States v. Dawson*, ACM 40755 – The record of trial is electronic, containing 1,992 pages. This includes 11 prosecution exhibits, eight defense exhibits, and 40 appellate exhibits. The transcript is 1,131 pages.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant consents to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 14 October 2025.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman First Class (E-3)	)	Before Panel No. 2
ROBERT A. PHILPOT III,)	
United States Air Force	)	No. ACM 40751
<i>Appellant.</i>)	
	)	16 October 2025
)	

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court’s Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant’s Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 330 days in length. Appellant’s nearly year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed over half of the 18 month standard for this Court to issue a decision, which only leaves about 8 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not completed review of the record of trial at this late stage of the appellate process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4804

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 16 October 2025.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4804

**UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS**

UNITED STATES	)	No. ACM 40751
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Robert A. PHILPOT, III)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 2

On 14 October 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Eighth) requesting an additional 30 days to submit Appellant's assignments of error. The Government opposes the motion.

The court has considered Appellant's motion, the Government's opposition, case law, and this court's Rules of Practice and Procedure. Accordingly, it is by the court on this 20th day of October, 2025,

ORDERED:

Appellant's Motion for Enlargement of Time (Eighth) is **GRANTED**. Appellant shall file any assignments of error not later than **22 November 2025**.

Appellant's counsel is advised that given the number of enlargements granted thus far, any further requests for an enlargement of time may necessitate a status conference.



FOR THE COURT

[Redacted signature]

JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (NINTH)
)	
v.	)	Before Panel 2
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	14 November 2025
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his ninth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **22 December¹ 2025**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 322 days have elapsed. On the date requested, 360 days will have elapsed.

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures, confinement for 40 months, and a dishonorable discharge. R. at 166. The convening

¹ A previous filing of the same name and date inadvertently said the enlargement period would end on 22 November. This was an error. The previous filing is withdrawn, and this one is filed in its place.

authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is confined.

The ROT is electronic consisting of 1,170 pages. The ROT includes consisting of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages.

Undersigned counsel is assigned 27 cases, 9 cases are pending initial AOE's before this Court. Two cases before the United States Supreme Court take priority over this case: (1) *United States v. Pulley* and (2) *United States v. Covitz*.

Further, the following cases before this Court take priority over the instant case:

- 1) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has completed a review of this record and identified several errors. Undersigned counsel has also completed drafting of much of the brief. However, undersigned counsel requires a confidential expert consultant to be appointed to complete this case. A motion to compel the Government to provide one will be filed today.
- 2) *United States v. Hon*, ACM 40671 – The record of trial is six volumes long consisting of 14 prosecution exhibits, seven defense exhibits, 28 appellate exhibits, and one court exhibit. The transcript is 483 pages long.
- 3) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits and 27 appellate exhibits. The transcript is 118 pages long.
- 4) *United States v. Parra Peralta*, ACM 40684 – The record of trial is eight volumes long consisting of 13 prosecution exhibits, 13 defense exhibits, 67 appellate exhibits, and one court exhibit. The transcript is 744 pages long.

- 5) *United States v. Dawson*, ACM 40755 – The record of trial is electronic, containing 1,992 pages. This includes 11 prosecution exhibits, eight defense exhibits, and 40 appellate exhibits. The transcript is 1,131 pages.

On 7 February 2024, this Court ordered that enlargements of time that, if granted, would expire more than 330 days after docketing, will not be granted absent exceptional circumstances. The exceptional circumstances in this case are: (1) the number of cases older than Appellant's on undersigned counsel's docket; (2) the number of cases on undersigned counsel's docket before the CAAF and the Supreme Court of the United States; and (3) the staffing shortages at the Appellate Defense Division coupled with a severe increase in workload.

As noted in *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998), there is no substitute for the briefing by appellate defense counsel on behalf of an individual appellant, even considering this Court's broad mandate for independent review. Appellant requested representation under Article 70, UCMJ, when he elected to appeal. Undersigned counsel's limited progress so far is not due to an unwillingness to familiarize himself with the case or file a brief raising substantive issues, nor is it a deliberate tactical decision in order to create an appellate issue. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008).

Undersigned counsel regularly examines his docket with supervisory counsel to assess the possibility of assigning substitute counsel to expedite review of Appellant's case. However, no such substitute counsel has been identified due to the Appellate Defense Division's workload. For a more detailed accounting of the staffing shortages at the Appellate Defense Division, our dramatically increased workload, and the attempts to mitigate these problems, please see the attached appendix. *See generally* Mot. to Atch., App'x.

Counsel simply cannot work faster without sacrificing his competent representation, which he owes to his clients. For example, in *United States v. Gibbs*, this Court thought it appropriate to deny an enlargement of time when assigned appellate counsel had not begun a review of the record. No. ACM 40523, slip op. at 21 (A.F. Ct. Crim. App. May 20, 2025). As this Court noted, its denial of that enlargement resulted in subpar representation. *See id.* at 23 n.10 (acknowledging that this Court identified an error that assigned appellate defense counsel failed to identify). As in *Gibbs*, this Court cannot deny this enlargement without sacrificing Appellant's right to effective representation.

This Court has authority to ask the Judge Advocate General to provide the appellate defense division with additional manning. *Roach*, 66 M.J. at 418. It has failed to do so, despite this division's repeated requests. Instead, it has denied enlargements of time resulting in deficient performance of counsel. *See Gibbs*, slip. op. at 21. This Court should not deprive appellants of their constitutional right to counsel who, due to no fault of their own, have had their appeals substantially delayed by the Government's failure to adequately staff this division. This Court can and should request additional personnel be assigned before ever considering denying an EOT.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant consents to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 14 November 2025.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES'
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman First Class (E-3)	)	Before Panel No. 2
ROBERT A. PHILPOT III,)	
United States Air Force,	)	No. ACM 40751
<i>Appellant.</i>)	
	)	17 November 2025
)	

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 360 days in length. Appellant's nearly year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two thirds of the 18 month standard for this Court to issue a decision, which only leaves about 6 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not completed review of the record at this late stage in the process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4804

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 17 November 2025.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4804

**UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS**

UNITED STATES	)	No. ACM 40751
<i>Appellee</i>)	
)	
v.)	
	)	NOTICE OF PANEL
Robert A. PHILPOT III	)	CHANGE
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>)	

It is by the court on this 15th day of December, 2025,

ORDERED:

That the Record of Trial in the above-styled matter is withdrawn from Panel 2 and referred to Panel 1 for appellate review.

This panel letter supersedes all previous panel assignments.



FOR THE COURT

[Redacted signature]

JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (TENTH)
)	
v.	)	Before Panel 2
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	15 December 2025
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his tenth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **21 January 2026**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 353 days have elapsed. On the date requested, 390 days will have elapsed.

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures, confinement for 40 months, and a dishonorable discharge. R. at 166. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is confined.

The ROT is electronic consisting of 1,170 pages. The ROT includes consisting of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages.

Undersigned counsel is assigned 27 cases, 11 cases are pending initial AOE's before this Court. One case before the Supreme Court of the United States takes priority over this case: *United States v. Hilton*. The petition for writ of certiorari is due in that case on 18 January 2026. One case before the Court of Appeals for the Armed Forces (CAAF) takes priority over this case: *United States v. Barlow*. Today, undersigned counsel is filing a Petition for Reconsideration and a Petition for a New Trial.

Further, the following cases before this Court take priority over the instant case:

- 1) *United States v. Hon*, ACM 40671 – The record of trial is six volumes long consisting of 14 prosecution exhibits, seven defense exhibits, 28 appellate exhibits, and one court exhibit. The transcript is 483 pages long.
- 2) *United States v. Parra Peralta*, ACM 40684 – The record of trial is eight volumes long consisting of 13 prosecution exhibits, 13 defense exhibits, 67 appellate exhibits, and one court exhibit. The transcript is 744 pages long.
- 3) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has completed a review of this record and identified several errors. Undersigned counsel has also completed drafting of much of the brief. However, due to this Court's order in *Parra Peralta*, the undersigned stopped work on this brief to complete *Hon* and *Parra Peralta* first.
- 4) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits and 27 appellate exhibits. The transcript is 118 pages long.

5) *United States v. Dawson*, ACM 40755 – The record of trial is electronic, containing 1,992 pages. This includes 11 prosecution exhibits, eight defense exhibits, and 40 appellate exhibits. The transcript is 1,131 pages.

On 7 February 2024, this Court ordered that enlargements of time that, if granted, would expire more than 330 days after docketing, will not be granted absent exceptional circumstances. The exceptional circumstances in this case are: (1) the number of cases older than Appellant's on undersigned counsel's docket; (2) the number of cases on undersigned counsel's docket before the CAAF and the Supreme Court of the United States; and (3) the staffing shortages at the Appellate Defense Division coupled with a severe increase in workload.

As noted in *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998), there is no substitute for the briefing by appellate defense counsel on behalf of an individual appellant, even considering this Court's broad mandate for independent review. Appellant requested representation under Article 70, UCMJ, when he elected to appeal. Undersigned counsel's limited progress so far is not due to an unwillingness to familiarize himself with the case or file a brief raising substantive issues, nor is it a deliberate tactical decision in order to create an appellate issue. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008).

Undersigned counsel regularly examines his docket with supervisory counsel to assess the possibility of assigning substitute counsel to expedite review of Appellant's case. However, no such substitute counsel has been identified due to the Appellate Defense Division's workload. For a more detailed accounting of the staffing shortages at the Appellate Defense Division, our dramatically increased workload, and the attempts to mitigate these problems, please see the attached appendix. *See generally* Mot. to Attch., App'x.

Counsel simply cannot work faster without sacrificing his competent representation, which he owes to his clients. For example, in *United States v. Gibbs*, this Court thought it appropriate to deny an enlargement of time when assigned appellate counsel had not begun a review of the record. No. ACM 40523, slip op. at 21 (A.F. Ct. Crim. App. May 20, 2025). As this Court noted, its denial of that enlargement resulted in subpar representation. *See id.* at 23 n.10 (acknowledging that this Court identified an error that assigned appellate defense counsel failed to identify). As in *Gibbs*, this Court cannot deny this enlargement without sacrificing Appellant's right to effective representation.

This Court has authority to ask the Judge Advocate General to provide the appellate defense division with additional manning. *Roach*, 66 M.J. at 418. It has failed to do so, despite this division's repeated requests. Instead, it has denied enlargements of time resulting in deficient performance of counsel. *See Gibbs*, slip. op. at 21. This Court should not deprive appellants of their constitutional right to counsel who, due to no fault of their own, have had their appeals substantially delayed by the Government's failure to adequately staff this division. This Court can and should request additional personnel be assigned before ever considering denying an EOT.

In addition to the above, undersigned counsel is also assigned to be the backfill director of staff for JAJ. Undersigned counsel is currently scheduled to perform backfill duties from 26 December 2025 until 2 January 2026. While this Court has noted that this duty "does not constitute good cause for further delay." *United States v. Parra Peralta*, No. ACM 40684 (A.F. Ct. Crim. App. Jan. 13, 2025) (Order), it nevertheless will impact undersigned counsel's ability to perform his duties before this Court.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time

to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant consents to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 15 December 2025.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 1
Airman First Class (E-3))	
ROBERT A. PHILPOT, III,	)	No. ACM 40751
United States Air Force.)	
<i>Appellant</i>	)	17 December 2025

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court’s Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant’s Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 390 days in length. Appellant’s over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 5 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not completed review of the record of trial at this late stage of the appellate process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 17 December 2025.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME
	)	(ELEVENTH)
)	
v.	)	Before Panel 1
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	13 January 2026
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his eleventh enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **20 February 2026**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 382 days have elapsed. On the date requested, 420 days will have elapsed.

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures, confinement for 40 months, and a dishonorable discharge. R. at 166. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is confined.

The ROT is electronic consisting of 1,170 pages. The ROT includes consisting of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages. Undersigned counsel is assigned 26 cases, 11 cases are pending initial AOE's before this Court. One case before the Supreme Court of the United States takes priority over this case: *United States v. Hilton*. One case before the Court of Appeals for the Armed Forces (CAAF) takes priority over this case: *United States v. Evangelista*. Further, the following cases before this Court take priority over the instant case:

- 1) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has completed a review of this record and identified several errors. Undersigned counsel has also completed drafting of much of the brief. However, due to this Court's order in *Parra Peralta*, the undersigned stopped work on this brief to complete *Hon* and *Parra Peralta* first. Both of those clients have elected to withdraw. Now, counsel will turn to re-familiarize himself with this case and finalize the AOE.
- 2) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits and 27 appellate exhibits. The transcript is 118 pages long.
- 3) *United States v. Dawson*, ACM 40755 – The record of trial is electronic, containing 1,992 pages. This includes 11 prosecution exhibits, eight defense exhibits, and 40 appellate exhibits. The transcript is 1,131 pages.

On 7 February 2024, this Court ordered that enlargements of time that, if granted, would expire more than 330 days after docketing, will not be granted absent exceptional circumstances. The exceptional circumstances in this case are: (1) the number of cases older than Appellant's on

undersigned counsel's docket; (2) the number of cases on undersigned counsel's docket before the CAAF and the Supreme Court of the United States; and (3) the staffing shortages at the Appellate Defense Division coupled with a severe increase in workload.

As noted in *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998), there is no substitute for the briefing by appellate defense counsel on behalf of an individual appellant, even considering this Court's broad mandate for independent review. Appellant requested representation under Article 70, UCMJ, when he elected to appeal. Undersigned counsel's limited progress so far is not due to an unwillingness to familiarize himself with the case or file a brief raising substantive issues, nor is it a deliberate tactical decision in order to create an appellate issue. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008).

Undersigned counsel regularly examines his docket with supervisory counsel to assess the possibility of assigning substitute counsel to expedite review of Appellant's case. However, no such substitute counsel has been identified due to the Appellate Defense Division's workload. For a more detailed accounting of the staffing shortages at the Appellate Defense Division, our dramatically increased workload, and the attempts to mitigate these problems, please see the attached appendix. *See generally* Mot. to Attch., App'x.

Counsel simply cannot work faster without sacrificing his competent representation, which he owes to his clients. In *United States v. Gibbs*, this Court denied an enlargement of time when assigned appellate counsel had not begun a review of the record. No. ACM 40523, slip op. at 21 (A.F. Ct. Crim. App. May 20, 2025). As this Court noted, its denial of that enlargement resulted in subpar representation. *See id.* at 23 n.10 (acknowledging that this Court identified an error that assigned appellate defense counsel failed to identify). As in *Gibbs*, this Court cannot deny this enlargement without sacrificing Appellant's right to effective representation.

This Court has authority to ask the Judge Advocate General to provide the appellate defense division with additional manning. *Roach*, 66 M.J. at 418. It has failed to do so, despite this division's repeated requests. Instead, it has denied enlargements of time resulting in deficient performance of counsel. *See Gibbs*, slip. op. at 21. This Court should not deprive appellants of their constitutional right to counsel who, due to no fault of their own, have had their appeals substantially delayed by the Government's failure to adequately staff this division. This Court can and should request additional personnel be assigned before ever considering denying an EOT.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant consents to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown.

Re 

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 13 January 2026.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 1
Airman First Class (E-3))	
ROBERT A. PHILPOT, III,	)	No. ACM 40751
United States Air Force.)	
<i>Appellant</i>	)	14 January 2026

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court’s Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant’s Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 420 days in length. Appellant’s over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 4 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not completed review of the record of trial at this late stage of the appellate process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 14 January 2026.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

**UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS**

UNITED STATES	)	No. ACM 40751
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Robert A. PHILPOT, III)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 13 January 2026, counsel for Appellant submitted a Motion for Enlargement of Time (Eleventh) requesting an additional 30 days to submit Appellant's assignments of error. The Government opposed the motion.

The court has considered Appellant's motion, the Government's opposition, case law, and this court's Rules of Practice and Procedure.

Accordingly, it is by the court on this 15th day of January, 2026,

ORDERED:

Appellant's Motion for Enlargement of Time (Eleventh) is **GRANTED**. Appellant shall file any assignments of error not later than **20 February 2026**.

It is further ordered:

At the time of filing any further enlargements of time, in addition to matters required by the court's rules and by prior orders of the court, Appellant's counsel will also identify the assignments of error Appellant reasonably expects to raise to the court, recognizing such identification will not bind or constrain Appellant with respect to which assignments he ultimately raises.



FOR THE COURT

[Redacted signature]

JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME
	)	(TWELFTH)
)	
v.	)	Before Panel 1
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	11 February 2026
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his twelfth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **22 March 2026**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 411 days have elapsed. On the date requested, 450 days will have elapsed.

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures, confinement for 40 months, and a dishonorable discharge. R. at 166. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is confined.

The ROT is electronic consisting of 1,170 pages. The ROT includes consisting of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages.

Undersigned counsel is assigned 16 cases, 8 cases are pending initial AOE's before this Court. One case before the Supreme Court of the United States takes priority over this case: *United States v. Hilton*. One case before the Court of Appeals for the Armed Forces (CAAF) takes priority over this case: *United States v. Evangelista*. Further, the following cases before this Court take priority over the instant case:

- 1) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits and 27 appellate exhibits. The transcript is 118 pages long.
- 2) *United States v. Dawson*, ACM 40755 – The record of trial is electronic, containing 1,992 pages. This includes 11 prosecution exhibits, eight defense exhibits, and 40 appellate exhibits. The transcript is 1,131 pages.

On 7 February 2024, this Court ordered that enlargements of time that, if granted, would expire more than 330 days after docketing, will not be granted absent exceptional circumstances. The exceptional circumstances in this case are: (1) the number of cases older than Appellant's on undersigned counsel's docket; (2) the number of cases on undersigned counsel's docket before the CAAF and the Supreme Court of the United States; and (3) the staffing shortages at the Appellate Defense Division coupled with a severe increase in workload.

As noted in *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998), there is no substitute for the briefing by appellate defense counsel on behalf of an individual appellant, even considering this Court's broad mandate for independent review. Appellant requested representation under Article 70, UCMJ, when he elected to appeal. Undersigned counsel's limited progress so far is not

due to an unwillingness to familiarize himself with the case or file a brief raising substantive issues, nor is it a deliberate tactical decision in order to create an appellate issue. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008).

Undersigned counsel regularly examines his docket with supervisory counsel to assess the possibility of assigning substitute counsel to expedite review of Appellant's case. However, no such substitute counsel has been identified due to the Appellate Defense Division's workload. For a more detailed accounting of the staffing shortages at the Appellate Defense Division, our dramatically increased workload, and the attempts to mitigate these problems, please see the attached appendix. *See generally* Mot. to Attch., App'x.

Counsel simply cannot work faster without sacrificing his competent representation, which he owes to his clients. In *United States v. Gibbs*, this Court denied an enlargement of time when assigned appellate counsel had not begun a review of the record. No. ACM 40523, slip op. at 21 (A.F. Ct. Crim. App. May 20, 2025). As this Court noted, its denial of that enlargement resulted in subpar representation. *See id.* at 23 n.10 (acknowledging that this Court identified an error that assigned appellate defense counsel failed to identify). As in *Gibbs*, this Court cannot deny this enlargement without sacrificing Appellant's right to effective representation.

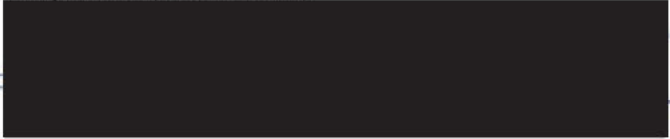
This Court has authority to ask the Judge Advocate General to provide the appellate defense division with additional manning. *Roach*, 66 M.J. at 418. It has not done so, despite this division's repeated requests. Instead, it has denied enlargements of time resulting in deficient performance of counsel. *See Gibbs*, slip. op. at 21. This Court should not deprive appellants of their constitutional right to counsel who, due to no fault of their own, have had their appeals substantially delayed by the Government's failure to adequately staff this division. This Court can and should request additional personnel be assigned before ever considering denying an EOT.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. Specifically, undersigned counsel has reviewed no part of Appellant's record, except for those parts necessary for the completion of this and earlier enlargements. This enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant consents to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 11 February 2026.

Respectfully submitted,

TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME –
	)	OUT OF TIME
v.)	
	)	Before Panel No. 1
Airman First Class (E-3))	
ROBERT A. PHILPOT, III,	)	No. ACM 40751
United States Air Force.)	
<i>Appellant</i>	)	15 February 2026

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court’s Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant’s Motion for Enlargement of Time, Out of Time, to file an Assignment of Error in this case. The United States is filing this motion out of time due to an administrative oversight.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 450 days in length. Appellant’s over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 3 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not completed review of the record of trial at this late stage of the appellate process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 15 February 2026.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES <i>Appellee,</i>	)	MOTION FOR LEAVE TO FILE A MOTION REQUESTING A STATUS CONFERENCE
)	
v.	)	Before Panel No. 1
)	
Airman First Class (E-3) ROBERT A. PHILPOT, III, United States Air Force, <i>Appellant.</i>	)	Case No. ACM 40751
)	
	)	18 February 2026

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23(d), Rule 23.4, and Rule 24 of this Court’s Rules of Practice and Procedure, Appellant hereby moves for leave to file a Motion Requesting a Status Conference. On 17 February 2026, this Court denied Appellant’s Motion for Enlargement of Time (Twelfth). *United States v. Philpot*, No. ACM 40751 (A.F. Ct. Crim. App. Feb. 17, 2026) (Order). This Court provided no basis for the denial, instead merely stamping it “DENIED.” *Id.*

Appellant’s Motion for Enlargement of Time (Twelfth) contained all information required by this Court’s rules and indicated that undersigned counsel would be able to neither complete a review of Appellant’s record nor file a brief before the current deadline of 20 February 2026. *See* Motion for Enlargement of Time (Twelfth), *United States v. Philpot*, No. ACM 40751, dated February 11, 2026. The motion also informed this Court why undersigned counsel could not complete a review and file a brief: the extreme workload demands on undersigned counsel, along with the Appellate Defense Division as a whole, with no new manning. Further, the Court of Appeals for the Armed Forces (CAAF) has previously admonished this Court that it cannot decide a case without briefing from an appellant when the appellant requests representation. *United States v. Roach*, 66 M.J. 410, 417-19 (C.A.A.F. 2008). Appellant has requested such representation.

It is possible the enlargement was denied because undersigned counsel did not include “identif[ied] assignments of errors,” as ordered by this Court. *United States v. Philpot*, No. ACM 40751 (A.F. Ct. Crim. App. Jan. 15, 2026). But such matters are either (1) attorney work product privilege; or (2) contain attorney-client privileged communications. Appellant has not consented to the disclosure of this information and asserts privilege, nor does undersigned counsel believe such disclosure is permitted by his ethical rules. Even if it were appropriate to order counsel to disclose such information, undersigned counsel has not conducted a review of Appellant’s case. Because errors are generally identified only upon review of a record, and because that review has not happened yet, Motion for Enlargement of Time (Twelfth), *United States v. Philpot*, No. ACM 40751, dated February 11, 2026, this Court can assume no errors have yet been identified.

A status conference is the most efficient way to ensure the timely progress of Appellant’s case. Without a status conference, undersigned counsel is left to speculate as to the basis of the denial and also the appropriate next steps: whether that be a motion for reconsideration (because this Court misapprehended the law or material facts), a motion for another enlargement (because counsel somehow inadvertently failed to provide this Court with information it needed to come to the correct decision), or a writ of mandamus to the CAAF. Denying this request for a status conference risks having counsel prepare and file three different documents to protect Appellant’s interests, which would expend important time needed to get to and through a review of Appellant’s case, complete multiple other time-sensitive court filings, and which would heighten undersigned counsel’s already strained workload, his personal life, and his ever-decreasing mental and physical health.

A status conference is the first suggested course of action provided by the CAAF when counsel “appear[] unresponsive” to the “timely progress of cases reviewed under Article 66,”

UCMJ. *Roach*, 66 M.J. at 418. The CAAF provides four other options before a court of criminal appeals can “determine that circumstances warrant proceeding without a brief filed by appointed military appellate counsel.” *Id.* Specifically, the CAAF *requires* “provid[ing] adequate notice to the appellant so that the appellant can determine whether to request substitute counsel under Article 70, obtain civilian counsel at the appellant’s expense, or waive the right to counsel and proceed pro se.” *Id.* This Court’s “DENIED” order three days before Appellant’s assignments of error brief is due contravenes *Roach* in a way that impedes Appellant’s rights, provides no notice as to how to correct the issue, and affords Appellant no ability “to proceed in an alternative fashion.” *Id.* at 419.

This Court should grant this motion and hold a status conference before the deadline to file a brief in this case. Given the abbreviated timeline before Appellant’s brief is due, Appellant further requests expedited resolution of this pleading.

Respectfully Submitted,

A black rectangular redaction box covers the signature of Trevor N. Ward. A blue ink scribble is visible to the right of the box.

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews, MD 20762

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were delivered by e-mail to the Court and served on the Government Trial and Appellate Operations Division on 18 February 2026.



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews, MD 20762
(240) 612-4770

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME
	)	(TWELFTH) – OUT OF TIME
)	
v.	)	Before Panel 1
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	19 February 2026
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his twelfth enlargement of time to file an Assignment of Error (AOE), out of time.¹ Appellant requests an enlargement for a period of 30 days, which will end on **22 March 2026**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 419 days have elapsed. On the date requested, 450 days will have elapsed.

Background Information

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures,

¹ A previous filing of the same name was filed more than seven days before Appellant’s AOE is due. *See* Mot. for Enlargement of Time (Twelfth), *United States v. Philpot*, No. ACM 40751, dated 11 Feb. 2026. This Court denied that enlargement. *Philpot*, No. ACM 40751 (A.F. Ct. Crim. App. Feb. 17, 2026) (Order). This filing requests the same enlargement of time and provides additional justification for Appellant’s motion.

confinement for 40 months, and a dishonorable discharge. R. at 166. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is confined.

The ROT is electronic consisting of 1,170 pages. The ROT consists of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages. Undersigned counsel has reviewed the transcript, stipulation of fact, plea agreement, and entry of judgement, and identified multiple prospective assignments of error.

Higher Priority Cases

Undersigned counsel is assigned 16 cases; 8 cases are pending initial AOE's before this Court. One case before the Supreme Court of the United States takes priority over this case: *United States v. Hilton*. This petition is due to the printer on or about 27 February 2026. Counsel is presently drafting this petition. One case before the Court of Appeals for the Armed Forces (CAAF) takes priority over this case: *United States v. Evangelista*. Undersigned counsel anticipates completing this supplemental brief by 6 March 2026. Further, the following cases before this Court take priority over the instant case:

- 1) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits and 27 appellate exhibits. The transcript is 118 pages long. Undersigned counsel has not reviewed this appellant's record. However, undersigned counsel has already identified several errors. This Appellant has consented to a limited disclosure of attorney-client communications that he intends to challenge the voluntariness of his guilty plea, the Government's jurisdiction over him, the effectiveness of his counsel, and the providence of his guilty plea, among other errors yet to be identified by the undersigned counsel.

2) *United States v. Dawson*, ACM 40755 – The record of trial is electronic, containing 1,992 pages. This includes 11 prosecution exhibits, eight defense exhibits, and 40 appellate exhibits. The transcript is 1,131 pages. Undersigned counsel has not begun a review of this record.

Exceptional Circumstances

On 7 February 2024, this Court ordered that enlargements of time that, if granted, would expire more than 330 days after docketing, will not be granted absent exceptional circumstances. The exceptional circumstances in this case are: (1) the number of cases older than Appellant's on undersigned counsel's docket; (2) the number of cases on undersigned counsel's docket before the CAAF and the Supreme Court of the United States; and (3) the staffing shortages at the Appellate Defense Division coupled with a severe increase in workload.

As noted in *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998), there is no substitute for the briefing by appellate defense counsel on behalf of an individual appellant, even considering this Court's broad mandate for independent review. Appellant requested representation under Article 70, UCMJ, when he elected to appeal. Undersigned counsel's limited progress so far is not due to an unwillingness to familiarize himself with the case or file a brief raising substantive issues, nor is it a deliberate tactical decision in order to create an appellate issue. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008).

Undersigned counsel regularly examines his docket with supervisory counsel to assess the possibility of assigning substitute counsel to expedite review of Appellant's case. However, no such substitute counsel has been identified due to the Appellate Defense Division's workload. For a more detailed accounting of the staffing shortages at the Appellate Defense Division, its dramatically increased workload, and the attempts to mitigate these problems, please see the

attached appendix. *See generally* Mot. to Attch., App’x. The appendix does not account for recent absences of Appellate Defense Division personnel, to include one attorney on parental leave through early March 2026 and another attorney’s unexpected absence through much of January and February that necessitated other counsel to take on almost all of the absent attorney’s docket.

Undersigned counsel owes each client both competence and diligence, Department of the Air Force Instruction 51-110, *Professional Responsibility Program*, dated 12 January 2026, Attachment 2, Rules 1.1, 1.6, and compressed timelines arising from denied motions for enlargements of time risk adverse effects for appellants. For example, in *United States v. Gibbs*, this Court denied an enlargement of time when undersigned counsel had not begun a review of the record. No. ACM 40523, slip op. at 21 (A.F. Ct. Crim. App. May 20, 2025). As this Court noted, a deficiency of proof affecting a specification “went unnoticed” by undersigned counsel in the briefing that followed. *Id.* at 23 n.10. The undersigned counsel is concerned that denial of any further enlargement requests in this case would result in a similar dynamic.

To the extent this Court believes that exceptional circumstances have not been sufficiently established, this Court should consider exercising its authority to ask the Judge Advocate General to provide the Appellate Defense Division with additional manning before denying an enlargement of time. *Roach*, 66 M.J. at 418. Where delays arise from the limited staffing manning for the Appellate Defense Division, doing so would mitigate the risk of deficient performance of counsel and protect appellants’ constitutional and statutory rights.

Projected Assignments of Error

On 15 January 2026, this Court ordered that “Appellant’s counsel will . . . identify the assignments of error Appellant reasonably expects to raise to the court [sic].” *United States v. Philpot*, No. ACM 40751 (A.F. Ct. Crim. App. Jan. 15, 2026) (Order). Appellant and the

undersigned maintain that identified assignments of error, if any, constitute attorney work product privilege and/or contain attorney-client privileged communications and are not subject to involuntary disclosure. *See United States v. Melette*, 72 M.J. 374, 379 (C.A.A.F. 2022) (“As defined by the Federal Rules of Evidence, attorney-client privilege is ‘the protection that applicable law provides for confidential attorney-client communications,’ while the work-product protection is ‘the protection that applicable law provides for tangible material (or its intangible equivalent) prepared in anticipation of litigation.’”). However, to comply with this Court’s order, Appellant consents to a limited disclosure of this information.

The identified assignments of error, which “will not bind or constrain Appellant with respect to which assignments he ultimately raises,” *Philpot*, No. ACM 40751 (A.F. Ct. Crim. App. Jan. 15, 2026) (Order), are as follows:

- Errors related to the providence of Appellant’s guilty pleas;
- Errors related to the coercive nature underlying Appellant’s decision to enter guilty pleas;
- Errors related to the introduction of purported victim impact statements offered by the Government at sentencing;
- Sentence appropriateness.

Undersigned Counsel’s Workload and Efficiency

Undersigned counsel is not dilatory in his efforts and spends a significant amount of time beyond his duty hours working his cases.

Since the last granted motion for enlargement of time, the undersigned completed the following: (1) a responsive brief in *United States v. Barlow* at the CAAF for a petition for a new trial; (2) a re-review of *United States v. Lawrence* and drafting/filing an AOE brief in that case; (3) a review of the record in *United States v. Soto-Chavez*, which contains 882 pages; (4) a

roundtable discussion and a moot to prepare another attorney for argument at the CAAF for *United States v. Menard*; (5) five moots to prepare another attorney for argument at the CAAF for *United States v. Marin Perez*; (6) a review of the over 3,000-page record in *Hilton*; (7) preparing for and conducting hours-long interviews with the military commissions defense organization, a required part of undersigned counsel's next assignment; (8) drafting the Supreme Court petition in *Hilton*; (9) filing a petition for review to the CAAF in *Evangelista*; (10) conducting research for a supplement brief in *Evangelista*; (11) a review of the over 800-page record in *United States v. Parra Peralta* and conducting research on identified errors; (12) research on several identified errors in *United States v. Hon*; (13) client consultation regarding withdrawal from appellate review in both *Hon* and *Parra Peralta*, resulting in withdrawal filings; (14) a review of this Appellant's transcript, entry of judgment, plea agreement, and stipulation of fact.

This is not Appellant's Fault

Undersigned counsel has reviewed the transcript, stipulation of fact, plea agreement, and entry of judgment in this case. Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case.

While undersigned counsel completed the review of the above after this Court's denial order, undersigned counsel cannot complete a review of the entire record, conduct research, and draft a brief, all before tomorrow, 20 February 2026. Further, undersigned counsel was required to prioritize this limited review over other matters before the Supreme Court, the CAAF, and this Court to comply with this Court's order. Undersigned counsel will not be able to continue prioritizing Appellant's review over higher priority matters. To ensure timely submission, the petition for *Hilton* is due to the printer next week and must be drafted and reviewed before then. Additionally, the supplement in *Evangelista* must be completed by next week to give civilian


counsel time to review the filing before it is due. Moreover, two cases before this Court take priority: *Dawson* and *Turner*. Counsel needs the time of the EOT, and likely one more, to accomplish all of the above and complete briefing in this case.

This enlargement of time, and likely one more, is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant consents to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown. If this Court believes denial is still appropriate, Appellant requests a status conference pursuant to *Roach*.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 19 February 2026.

Respectfully submitted,

A large black rectangular redaction box covers the signature area. To the right of the box, there is a faint blue handwritten mark that appears to be the initials 'TW'.

TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME
	)	(THIRTEENTH)
)	
v.	)	Before Panel 1
)	
Airman First Class (E-3)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force	)	12 March 2026
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his thirteenth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **21 April 2026**. This case was docketed with this Court on 27 December 2024. From the date of docketing to the present date, 440 days have elapsed. On the date requested, 480 days will have elapsed.

Background Information

On 9-10 October 2024, R. at 1, 166, Appellant was tried by a military judge alone sitting as a general court-martial. R. at 16. Consistent with his pleas, R. at 17, Appellant was found guilty of one charge and three specifications of distribution, possession, and viewing of child pornography, in violation of Article 134, Uniform Code of Military Justice (UCMJ). R. at 91. The military judge sentenced Appellant to a reprimand, reduction to the pay grade of E-1, total forfeitures, confinement for 40 months, and a dishonorable discharge. R. at 166. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is confined.

The ROT is electronic consisting of 1,170 pages. The ROT consists of two prosecution exhibits, one defense exhibit, 11 appellate exhibits, and one court exhibit. The transcript is 161 pages. Undersigned counsel has reviewed the transcript, stipulation of fact, plea agreement, and entry of judgement, and identified multiple prospective assignments of error, which are detailed below.

Higher Priority Cases

Undersigned counsel is assigned 15 cases; 7 cases are pending initial AOE's before this Court. No case before the Court of Appeals for the Armed Forces or the United States Supreme Court takes priority over this case. However, undersigned counsel notes the possibility that a case take priority should the CAAF grant any case currently pending before it or any appellant decide to petition the Supreme Court.

- 1) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits and 27 appellate exhibits. The transcript is 118 pages long. Undersigned counsel has completed a review of this record, identified several errors, and has begun research. Undersigned counsel anticipates completing this initial brief by late next week.
- 2) *United States v. Dawson*, ACM 40755 – The record of trial is electronic, containing 1,992 pages. This includes 11 prosecution exhibits, eight defense exhibits, and 40 appellate exhibits. The transcript is 1,131 pages. Undersigned counsel has not begun a review of this record.

Exceptional Circumstances

On 7 February 2024, this Court ordered that enlargements of time that, if granted, would expire more than 330 days after docketing, will not be granted absent exceptional circumstances.

The exceptional circumstances in this case are: (1) the number of cases older than Appellant's on undersigned counsel's docket; (2) the number of cases on undersigned counsel's docket before the CAAF and the Supreme Court of the United States; and (3) the staffing shortages at the Appellate Defense Division coupled with a severe increase in workload.

As noted in *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998), there is no substitute for the briefing by appellate defense counsel on behalf of an individual appellant, even considering this Court's broad mandate for independent review. Appellant requested representation under Article 70, UCMJ, when he elected to appeal. Undersigned counsel's limited progress so far is not due to an unwillingness to familiarize himself with the case or file a brief raising substantive issues, nor is it a deliberate tactical decision in order to create an appellate issue. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008).

Undersigned counsel regularly examines his docket with supervisory counsel to assess the possibility of assigning substitute counsel to expedite review of Appellant's case. However, no such substitute counsel has been identified due to the Appellate Defense Division's workload. For a more detailed accounting of the staffing shortages at the Appellate Defense Division, its dramatically increased workload, and the attempts to mitigate these problems, please see the attached appendix. *See generally* Mot. to Attch., App'x. The appendix does not account for recent absences of Appellate Defense Division personnel, to include one attorney on parental leave through early March 2026 and another attorney's unexpected absence through much of January and February that necessitated other counsel to take on almost all of the absent attorney's docket.

Undersigned counsel owes each client both competence and diligence, Department of the Air Force Instruction 51-110, *Professional Responsibility Program*, dated 12 January 2026, Attachment 2, Rules 1.1, 1.6, and compressed timelines arising from denied motions for

enlargements of time risk adverse effects for appellants. For example, in *United States v. Gibbs*, this Court denied an enlargement of time when undersigned counsel had not begun a review of the record. No. ACM 40523, slip op. at 21 (A.F. Ct. Crim. App. May 20, 2025). As this Court noted, a deficiency of proof affecting a specification “went unnoticed” by undersigned counsel in the briefing that followed. *Id.* at 23 n.10. The undersigned counsel is concerned that denial of any further enlargement requests in this case would result in a similar dynamic.

To the extent this Court believes that exceptional circumstances have not been sufficiently established, this Court should consider exercising its authority to ask the Judge Advocate General to provide the Appellate Defense Division with additional manning before denying an enlargement of time. *Roach*, 66 M.J. at 418. Where delays arise from the limited staffing manning for the Appellate Defense Division, doing so would mitigate the risk of deficient performance of counsel and protect appellants’ constitutional and statutory rights.

Projected Assignments of Error

On 15 January 2026, this Court ordered that “Appellant’s counsel will . . . identify the assignments of error Appellant reasonably expects to raise to the court [sic].” *United States v. Philpot*, No. ACM 40751 (A.F. Ct. Crim. App. Jan. 15, 2026) (Order). Appellant and the undersigned maintain that identified assignments of error, if any, constitute attorney work product privilege and/or contain attorney-client privileged communications and are not subject to involuntary disclosure. *See United States v. Melette*, 72 M.J. 374, 379 (C.A.A.F. 2022) (“As defined by the Federal Rules of Evidence, attorney-client privilege is ‘the protection that applicable law provides for confidential attorney-client communications,’ while the work-product protection is ‘the protection that applicable law provides for tangible material (or its intangible

equivalent) prepared in anticipation of litigation.”). However, to comply with this Court’s order, Appellant consents to a limited disclosure of this information.

The identified assignments of error, which “will not bind or constrain Appellant with respect to which assignments he ultimately raises,” *Philpot*, No. ACM 40751 (A.F. Ct. Crim. App. Jan. 15, 2026) (Order), are as follows:

- Errors related to the providence of Appellant’s guilty pleas;
- Errors related to the coercive nature underlying Appellant’s decision to enter guilty pleas;
- Errors related to the introduction of purported victim impact statements offered by the Government at sentencing;
- Sentence appropriateness.

This is not Appellant’s Fault

Undersigned counsel has reviewed the transcript, stipulation of fact, plea agreement, and entry of judgement in this case. Through no fault of Appellant, undersigned counsel has been unable to complete his review of the record and prepare a brief of Appellant’s case.

While undersigned counsel completed the review of the above after this Court’s denial order last month, undersigned counsel cannot complete a review of the entire record, conduct research, and draft a brief, while also completing briefing in cases of a higher priority than Appellant’s.

This enlargement of time is necessary to allow counsel time to fully review Appellant’s case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

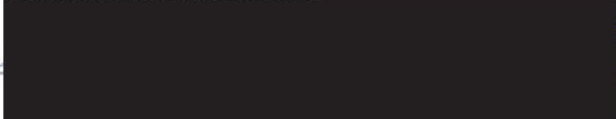
- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.

(3) Appellant has been apprised of the status of undersigned counsel's progress on his case.

(4) Appellant consents to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Court grant the requested enlargement of time for good cause shown. If this Court believes denial is still appropriate, Appellant requests a status conference pursuant to *Roach*.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 12 March 2026.

Respectfully submitted,

A black rectangular redaction box covers the signature area. A blue handwritten mark is visible to the right of the box.

TREVOR N. WARD, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 1
Airman First Class (E-3))	
ROBERT A. PHILPOTT III,	)	No. ACM 40751
United States Air Force.)	
<i>Appellant</i>	)	16 March 2026

**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.2 of this Court’s Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant’s Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 480 days in length. Appellant’s over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards.

Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 2 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not completed review of the record of trial at this late stage of the appellate process.

WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 16 March 2026.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	CONSENT MOTION TO
<i>Appellee,</i>	)	EXAMINE SEALED MATERIAL
)	
v.	)	Before Panel No. 1
)	
Airman First Class (A1C)	)	No. ACM 40751
ROBERT A. PHILPOT, III,)	
United States Air Force.	)	19 March 2026
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rules 3.1 and 23.3(f) of this Court’s Rules of Practice and Procedure and Rule for Courts-Martial (R.C.M.) 1113(b)(3)(B)(i), the Appellant moves for both parties to examine the following sealed material:

- 1) **Prosecution Exhibit 1, Attachment 9.** This exhibit purportedly contains contraband which was offered by the Government and admitted by the military judge as part of the stipulation of fact. The Government counsel, defense counsel, and military judge reviewed this material.

In accordance with R.C.M. 1113(b)(3)(B)(i), which requires a colorable showing that examination of these matters is reasonably necessary to appellate counsels’ responsibilities, undersigned counsel asserts that review of the referenced exhibit is necessary to conduct a complete review of the record of trial and be in a position to advocate competently on behalf of Appellant. Attachemnt 9 was attached to the stipulation of fact, which was used as part of the evidence to convict Appellant. It was also used to assess his sentence. A review of this material is necessary for counsel to assess sentence severity as well as the providence of Appellant’s plea.

Moreover, a review of the entire record of trial is necessary because this Court is empowered by Article 66, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 866, to grant

relief based on a review and analysis of “the entire record.” To determine whether the record of trial yields grounds for this Court to grant relief under Article 66, UCMJ, 10 U.S.C. § 866, appellate defense counsel must, therefore, examine “the entire record.”

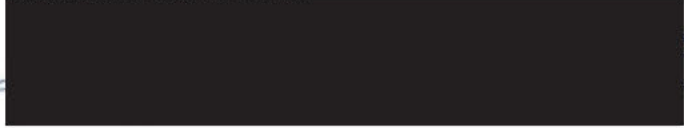
Although Courts of Criminal Appeals have a broad mandate to review the record unconstrained by an appellant's assignments of error, that broad mandate does not reduce the importance of adequate representation. As we said in *United States v. Ortiz*, 24 M.J. 323, 325 (C.M.A. 1987), independent review is not the same as competent appellate representation.

United States v. May, 47 M.J. 478, 481, (C.A.A.F. 1998). The sealed material referenced above must be reviewed to ensure undersigned counsel provides “competent appellate representation.” *Id.* Accordingly, examination of this exhibit is reasonably necessary since undersigned counsel cannot fulfill his duty of representation under Article 70, UCMJ, 10 U.S.C. § 870, without first reviewing the complete record of trial.

Appellate Government Counsel have been consulted about this motion and consents to the relief sought by the Appellant.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant this motion.

Respectfully submitted



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 19 March 2026.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

**UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS**

UNITED STATES	)	No. ACM 40751
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Robert A. PHILPOT, III)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 19 March 2026, counsel for Appellant submitted a Consent Motion to Examine Sealed Materials. Specifically, Appellant requests counsel for both parties be permitted to examine the following materials sealed by the military judge: Prosecution Exhibit 1, Attachment 9. These materials were reviewed by trial counsel and trial defense counsel at trial.

Appellate counsel may examine sealed materials released to counsel at trial “upon a colorable showing . . . that examination is reasonably necessary to a proper fulfillment of the appellate counsel’s responsibilities” R.C.M. 1113(b)(3)(B)(i).

The court has considered Appellant’s motion, the Government’s consent, and this court’s Rules of Practice and Procedure. The court finds Appellant’s counsel has made a colorable showing that review of the sealed materials is necessary to fulfill counsel’s responsibilities.

Accordingly, it is by the court on this 23d day of March, 2026,

ORDERED:

Appellant’s Consent Motion to Examine Sealed Materials is **GRANTED**.

Appellate defense counsel and appellate government counsel may view **Prosecution Exhibit 1, Attachment 9**, subject to the following conditions:

To view the sealed materials, counsel will coordinate with the court.

It is further ordered:

No counsel granted access to the sealed materials may photocopy, photograph, or otherwise reproduce this material and will not disclose or make available its contents to any other individual without this court's prior written authorization.



FOR THE COURT



AGNIESZKA M. GAERTNER, Capt, USAF
Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION TO WITHDRAW FROM
<i>Appellee,</i>	)	APPELLATE REVIEW AND
	)	MOTION TO ATTACH
)	
v.	)	Before Panel No. 1
)	
Airman First Class (E-3),	)	No. ACM 40751
Robert A. PHILPOTT, III,)	
United States Air Force,	)	April 13, 2026
<i>Appellant.</i>)	


**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 16 of this Honorable Court’s Rules of Practice and Procedure, and Rule for Courts-Martial (R.C.M.) 1115, Appellant hereby moves to withdraw his case from appellate review. Appellant has fully consulted with Maj Trevor N. Ward, his appellate defense counsel, regarding this motion to withdraw. No person has compelled, coerced, or induced Appellant by force, promises of clemency, or otherwise to withdraw his case from appellate review.

Further, pursuant to Rules 23(b) and 23.3(b) of this Honorable Court’s Rules of Practice and Procedure, undersigned counsel asks this Court to attach the two-page document appended to this pleading to Appellant’s Record of Trial. The appended document is a Department of Defense Form 2330, signed by Appellant and undersigned counsel. The appended document is necessary to comply with R.C.M. 1115(d) and Rule 16.1 of this Honorable Court’s Rules of Practice and Procedure.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the above captioned motion to withdraw from appellate review and likewise grant his request to attach matters to the record.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on April 13, 2026.

Respectfully submitted,

A black rectangular redaction box covers the signature area. To the right of the box, there is a faint blue handwritten mark that appears to be the initials 'RW'.

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION TO WITHDRAW FROM
<i>Appellee,</i>	)	APPELLATE REVIEW AND
	)	MOTION TO ATTACH
)	
v.	)	Before Panel No. 1
)	
Airman First Class (E-3),	)	No. ACM 40751
Robert A. PHILPOTT, III,)	
United States Air Force,	)	April 13, 2026
<i>Appellant.</i>)	

**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 16 of this Honorable Court’s Rules of Practice and Procedure, and Rule for Courts-Martial (R.C.M.) 1115, Appellant hereby moves to withdraw his case from appellate review. Appellant has fully consulted with Maj Trevor N. Ward, his appellate defense counsel, regarding this motion to withdraw. No person has compelled, coerced, or induced Appellant by force, promises of clemency, or otherwise to withdraw his case from appellate review.

Further, pursuant to Rules 23(b) and 23.3(b) of this Honorable Court’s Rules of Practice and Procedure, undersigned counsel asks this Court to attach the two-page document appended to this pleading to Appellant’s Record of Trial. The appended document is a Department of Defense Form 2330, signed by Appellant and undersigned counsel. The appended document is necessary to comply with R.C.M. 1115(d) and Rule 16.1 of this Honorable Court’s Rules of Practice and Procedure.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the above captioned motion to withdraw from appellate review and likewise grant his request to attach matters to the record.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on April 13, 2026.



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
United States Air Force
(240) 612-2807

**UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS**

UNITED STATES	)	No. ACM 40751
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Robert A. PHILPOT III)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 13 April 2026, Appellant submitted a motion to withdraw from appellate review, along with a request to attach Appellant’s DD Form 2330, *Waiver/Withdrawal of Appellate Rights in General and Special Courts-Martial Subject to Review by a Court of Criminal Appeals*, signed by Appellant on 10 April 2026 and Appellant’s counsel on 13 April 2026.

The Government did not file a response.

Accordingly, it is by the court on this 17th day of April, 2026,

ORDERED:

Appellant’s Motion to Withdraw from Appellate Review and Attach is **GRANTED**. Appellant’s case is forwarded to the Appellate Records Branch (JAJM) for further processing in accordance with Rules for Courts-Martial 1115(f)(3) and 1201, *Manual for Courts-Martial, United States* (2024 ed.).



FOR THE COURT



AGNIESZKA M. GAERTNER, Capt, USAF
Commissioner