

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

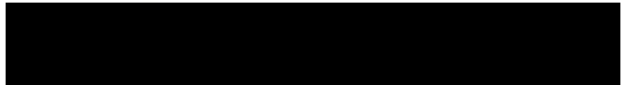
|                            |   |                                |
|----------------------------|---|--------------------------------|
| <b>UNITED STATES</b>       | ) | <b>NOTICE OF DIRECT APPEAL</b> |
|                            | ) | <b>PURSUANT TO ARTICLE</b>     |
| <i>Appellee</i>            | ) | <b>66(b)(1)(A)</b>             |
|                            | ) |                                |
| v.                         | ) |                                |
|                            | ) |                                |
| Senior Airman (E-4)        | ) | No. ACM SXXXXXX                |
| <b>ZECHARIAH S. HUGHES</b> | ) |                                |
| United States Air Force    | ) | 16 October 2024                |
| <i>Appellant</i>           | ) |                                |

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

On 17 April 2024, a military judge sitting at a special court-martial consisting of a military judge alone convicted Senior Airman (SrA) Hughes, contrary to his pleas, of one additional charge and one specification of communicating a threat in violation of Article 115, Uniform Code of Military Justice (UCMJ). Record of Trial (ROT), Vol. 1, *Entry of Judgment*, dated 16 May 2024. The military judge found SrA Hughes, consistent with his pleas, not guilty of one charge and three specifications of dereliction of duty in violation Article 92, UCMJ, and one charge and one specification of assault in violation of Article 128, UCMJ. *Id.* The military judge sentenced SrA Hughes to a reprimand and a reduction to the grade of E-3. *Id.* The Convening Authority took no action on the finding or sentence. ROT, Vol. 1, *Convening Authority Decision on Action*, dated 9 May 2024.

On 11 September 2024, the Government sent SrA Hughes the required notice, by mail, of his right to appeal within 90 days. Pursuant to Article 66(b)(1)(A), UCMJ, 10 U.S.C. § 866(b)(1)(A), SrA Hughes files his notice of direct appeal with this Court.

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



**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 Appellate Government Division on 16 October 2024.

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



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

|                            |   |                  |
|----------------------------|---|------------------|
| <b>UNITED STATES</b>       | ) | No. ACM _____    |
| <i>Appellee</i>            | ) |                  |
|                            | ) |                  |
| v.                         | ) |                  |
|                            | ) | <b>NOTICE OF</b> |
| <b>Zechariah S. HUGHES</b> | ) | <b>DOCKETING</b> |
| <b>Senior Airman (E-4)</b> | ) |                  |
| <b>U.S. Air Force</b>      | ) |                  |
| <i>Appellant</i>           | ) |                  |

On 17 October 2024, this court received a notice of direct appeal from Appellant in the above-styled case, pursuant to Article 66(b)(1)(A), Uniform Code of Military Justice, 10 U.S.C. § 866(b)(1)(A).

As of the date of this notice, the court has not yet received a record of trial in Appellant's case.

Accordingly, it is by the court on this 17th day of October, 2024,

**ORDERED:**

The case in the above-styled matter is referred to Panel 1.

**It is further ordered:**

The Government will forward a copy of the record of trial to the court forthwith.



FOR THE COURT



OLGA STANFORD, Capt, USAF  
Commissioner

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

|                             |   |                                  |
|-----------------------------|---|----------------------------------|
| <b>UNITED STATES</b>        | ) | <b>MOTION FOR ENLARGEMENT OF</b> |
| <i>Appellee,</i>            | ) | <b>TIME (FIRST)</b>              |
|                             | ) |                                  |
| v.                          | ) | Before Panel No. 1               |
|                             | ) |                                  |
| Senior Airman (E-4)         | ) | No. ACM 24066                    |
| <b>ZECHARIAH S. HUGHES,</b> | ) |                                  |
| United States Air Force,    | ) | 16 December 2024                 |
| <i>Appellant.</i>           | ) |                                  |

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

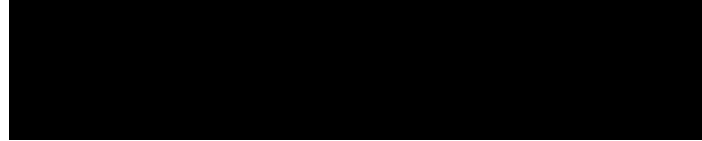
Pursuant to Rule 23.3(m)(1) and 23.3(m)(2) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **25 February 2025**.

Appellant’s direct appeal was docketed with this Court on 17 October 2024. At the time of docketing, the Court had not received the record of trial and ordered it delivered forthwith. *Notice of Docketing*, dated 17 October 2024. The Government delivered the record of trial to the Court on 28 October 2024, **11 days** after docketing. Sixty days from 28 October 2024 is 27 December 2024, the deadline for Appellant’s AOE brief, absent any EOTs. A.F. Ct. Crim. App. R. 18(d).

From the date of docketing, 17 October 2024, to the present date, 60 days have elapsed. From the date of the record of trial was referred to the Court, 28 October 2024, to the present date, 49 days have elapsed. On the date requested, 120 days will have elapsed from the date the Court received the record of trial and 131 days will have elapsed since docketing.

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

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



**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 December 2024.

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



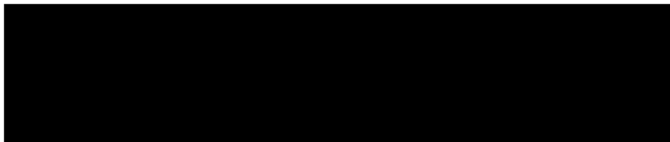
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

|                            |   |                           |
|----------------------------|---|---------------------------|
| UNITED STATES,             | ) | UNITED STATES' GENERAL    |
| <i>Appellee,</i>           | ) | OPPOSITION TO APPELLANT'S |
|                            | ) | MOTION FOR ENLARGEMENT    |
| v.                         | ) | OF TIME                   |
|                            | ) |                           |
| Senior Airman (E-4)        | ) | ACM 24066                 |
| ZECHARIAH S. HUGHES, USAF, | ) |                           |
| <i>Appellant.</i>          | ) | Panel No. 1               |
|                            | ) |                           |

**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.



MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
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 2024.

*Mary Ellen Payne*  


MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force  
(240) 612-4800

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

|                     |   |                |
|---------------------|---|----------------|
| UNITED STATES       | ) | No. ACM 24066  |
| <i>Appellee</i>     | ) |                |
|                     | ) |                |
| v.                  | ) |                |
|                     | ) | <b>ORDER</b>   |
| Zechariah S. HUGHES | ) |                |
| Senior Airman (E-4) | ) |                |
| U.S. Air Force      | ) |                |
| <i>Appellant</i>    | ) | <b>Panel 1</b> |

On 16 December 2024, 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 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 18th day of December, 2024,

**ORDERED:**

Appellant's Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error not later than **25 February 2025**.

Each request for an enlargement of time will be considered on its merits. Appellant's counsel is advised that any subsequent motions for enlargement of time shall include, in addition to 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.



FOR THE COURT

[Redacted signature]

OLGA STANFORD, Capt, USAF  
Chief Commissioner

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

|                             |   |                                  |
|-----------------------------|---|----------------------------------|
| <b>UNITED STATES</b>        | ) | <b>MOTION FOR ENLARGEMENT OF</b> |
| <i>Appellee,</i>            | ) | <b>TIME (SECOND)</b>             |
|                             | ) |                                  |
| v.                          | ) | Before Panel No. 1               |
|                             | ) |                                  |
| Senior Airman (E-4)         | ) | No. ACM 24066                    |
| <b>ZECHARIAH S. HUGHES,</b> | ) |                                  |
| United States Air Force,    | ) | 18 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)(3) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **27 March 2025**.

Appellant’s direct appeal was docketed with this Court on 17 October 2024. At the time of docketing, the Court had not received the record of trial and ordered it delivered forthwith. *Notice of Docketing*, dated 17 October 2024. The Government delivered the record of trial to the Court on 28 October 2024, **11 days** after docketing. Pursuant to Rule 18(d) of this Honorable Court’s Rules of Practice and Procedure, 28 October 2024 is the appropriate date to use when computing the timing of Appellant’s filings. From the date of docketing to the present date, 124 days have elapsed, 113 from the date the record was referred to this Honorable Court. On the date requested, 161 days will have elapsed since docketing and 150 days since the date the record was referred to this Honorable Court.

On 17 April 2024, a special court-martial consisting of a military judge alone at Dyess Air Force Base, Texas, found Appellant guilty, inconsistent to his pleas, of one charge and one specification of communication a threat in violation of Article 115, Uniform Code of Military

Justice (UCMJ).<sup>1</sup> Record of Trial (ROT), Entry of Judgment (EOJ), dated 16 May 2024; Record (R.) at 135. The military judge sentenced Appellant to be reprimanded and reduced to the grade of E-3. R. at 135; EOJ.

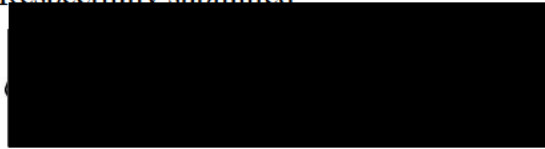

The Convening Authority took no action on the findings or sentence. ROT, Convening Authority Decision on Action – *United States v. SrA Zechariah S. Hughes*, dated 9 May 2024.

The electronic ROT is 1 volume and consists of 6 Prosecution Exhibits, 8 Defense Exhibits, and 12 Appellate Exhibits; the transcript is 172 pages. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted

  
JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770  


---

<sup>1</sup> Appellate was acquitted of the remaining charges and specifications. R. at 135.

**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 February 2025.

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



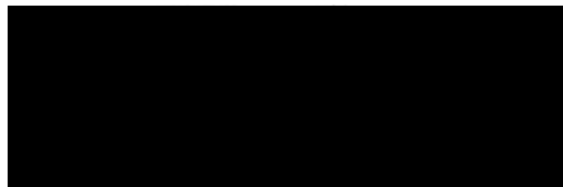
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

|                            |   |                           |
|----------------------------|---|---------------------------|
| UNITED STATES,             | ) | UNITED STATES' GENERAL    |
| <i>Appellee,</i>           | ) | OPPOSITION TO APPELLANT'S |
|                            | ) | MOTION FOR ENLARGEMENT    |
| v.                         | ) | OF TIME                   |
|                            | ) |                           |
| Senior Airman (E-4)        | ) | ACM 24066                 |
| ZECHARIAH S. HUGHES, USAF, | ) |                           |
| <i>Appellant.</i>          | ) | Panel No. 1               |
|                            | ) |                           |

**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.



THOMAS J. ALFORD, Lt Col, USAFR  
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 20 February 2025.



THOMAS J. ALFORD, Lt Col, USAFR  
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**

|                             |   |                                  |
|-----------------------------|---|----------------------------------|
| <b>UNITED STATES</b>        | ) | <b>MOTION FOR ENLARGEMENT OF</b> |
| <i>Appellee,</i>            | ) | <b>TIME (THIRD)</b>              |
|                             | ) |                                  |
| v.                          | ) | Before Panel No. 1               |
|                             | ) |                                  |
| Senior Airman (E-4)         | ) | No. ACM 24066                    |
| <b>ZECHARIAH S. HUGHES,</b> | ) |                                  |
| United States Air Force,    | ) | 17 March 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) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **26 April 2025**.

Appellant’s direct appeal was docketed with this Court on 17 October 2024. At the time of docketing, the Court had not received the record of trial and ordered it delivered forthwith. *Notice of Docketing*, dated 17 October 2024. The Government delivered the record of trial to the Court on 28 October 2024, 11 days after docketing. Pursuant to Rule 18(d) of this Honorable Court’s Rules of Practice and Procedure, 28 October 2024 is the appropriate date to use when computing the timing of Appellant’s filings. From the date of docketing to the present date, 151 days have elapsed, 140 from the date the record was referred to this Honorable Court. On the date requested, 191 days will have elapsed since docketing and 180 days since the date the record was referred to this Honorable Court.

On 17 April 2024, a special court-martial consisting of a military judge alone at Dyess Air Force Base, Texas, found Appellant guilty, inconsistent to his pleas, of one charge and one specification of communication a threat in violation of Article 115, Uniform Code of Military

Justice (UCMJ).<sup>1</sup> Record of Trial (ROT), Entry of Judgment (EOJ), dated 16 May 2024; Record (R.) at 135. The military judge sentenced Appellant to be reprimanded and reduced to the grade of E-3. R. at 135; EOJ.

The Convening Authority took no action on the findings or sentence. ROT, Convening Authority Decision on Action – *United States v. SrA Zechariah S. Hughes*, dated 9 May 2024.

The electronic ROT is 1 volume and consists of 6 Prosecution Exhibits, 8 Defense Exhibits, and 12 Appellate Exhibits; the transcript is 172 pages. Appellant is not currently confined.

The undersigned counsel is currently assigned 24 cases; 20 cases are pending before this Court (17 cases are pending AOE). To date, nine cases have priority over the present case.

1. *United States v. Cabrie*, No ACM 40615 – The ROT is 3 volumes and consists of 5 Prosecution Exhibits, 6 Defense Exhibits, and 12 Appellate Exhibits; the transcript is 138 pages. Appellant is not currently confined. Counsel has begun drafting the AOE.

2. *United States v. Capers*, No ACM 40641 – The electronic ROT is 1 volume and consists of 3 Prosecution Exhibits, 5 Defense Exhibits, 14 Appellate Exhibits, and 4 Court Exhibits; the transcript is 405 pages. Counsel has begun, but not completed, her review of the record of trial.

3. *United States v. Griffin*, No ACM 40641 – The ROT is 6 volumes and consists of 24 Prosecution Exhibits, 29 Defense Exhibits, 30 Appellate Exhibits, and 1 Court Exhibits; the transcript is 605 pages. Appellant is currently confined. Counsel has begun, but not completed, her review of the record of trial.

---

<sup>1</sup> Appellate was acquitted of the remaining charges and specifications. R. at 135.

4. *United States v. Anderson*, No. ACM 40654 – The ROT is 12 volumes and consists of 15 Prosecution Exhibits, 14 Defense Exhibits, and 96 Appellate Exhibits; the transcript is 1229 pages. Appellant is currently confined. Although this case was docketed on 13 August 2024, undersigned counsel has prioritized this case to keep pace with the Appellant’s civilian counsel.

5. *United States v. Hooker*, No. ACM 40646 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

6. *United States v. Roedel*, No. ACM 40662 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

7. *United States v. Coley*, No. ACM 40675 – The electronic record of trial is 1 volume and consists of 13 Prosecution Exhibits, 1 Defense Exhibit, and 17 Appellate Exhibits; the transcript is 124 pages. Appellant is currently confined.

8. *United States v. Nesbitt*, No. ACM 40679 - The electronic ROT is 6 volumes and consists of 6 Prosecution Exhibits, 0 Defense Exhibits, 65 Appellate Exhibits, and 2 Court Exhibits; the transcript is 373 pages. Appellant is currently confined.

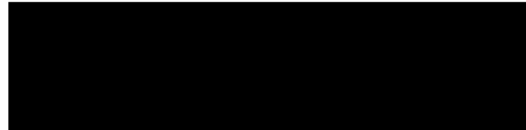
9. *United States v. Osorno*, No. ACM S32792 - The ROT is 2 volumes and consists of 3 Prosecution Exhibits, 4 Defense Exhibits, and 9 Appellate Exhibits; the transcript is 81 pages. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant’s case. An enlargement of time is necessary to allow counsel to fully review Appellant’s case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of

counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



**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 17 March 2025.

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



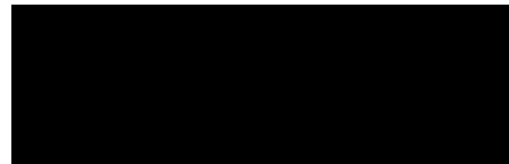
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

|                            |   |                        |
|----------------------------|---|------------------------|
| UNITED STATES,             | ) | UNITED STATES' GENERAL |
|                            | ) | OPPOSITION TO          |
| <i>Appellee,</i>           | ) | APPELLANT'S MOTION FOR |
|                            | ) | ENLARGEMENT OF TIME    |
| v.                         | ) |                        |
|                            | ) | Before Panel No. 1     |
| Senior Airman (E-4)        | ) |                        |
| <b>ZECHARIAH S. HUGHES</b> | ) | No. ACM 24066          |
| United States Air Force.   | ) |                        |
| <i>Appellant</i>           | ) | 19 March 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 19 March 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**

|                             |   |                                  |
|-----------------------------|---|----------------------------------|
| <b>UNITED STATES</b>        | ) | <b>MOTION FOR ENLARGEMENT OF</b> |
| <i>Appellee,</i>            | ) | <b>TIME (FOURTH)</b>             |
|                             | ) |                                  |
| v.                          | ) | Before Panel No. 1               |
|                             | ) |                                  |
| Senior Airman (E-4)         | ) | No. ACM 24066                    |
| <b>ZECHARIAH S. HUGHES,</b> | ) |                                  |
| United States Air Force,    | ) | 16 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) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **26 May 2025**.

Appellant’s direct appeal was docketed with this Court on 17 October 2024. At the time of docketing, the Court had not received the record of trial and ordered it delivered forthwith. *Notice of Docketing*, dated 17 October 2024. The Government delivered the record of trial to the Court on 28 October 2024, 11 days after docketing. Pursuant to Rule 18(d) of this Honorable Court’s Rules of Practice and Procedure, 28 October 2024 is the appropriate date to use when computing the timing of Appellant’s filings. From the date of docketing to the present date, 181 days have elapsed, 170 from the date the record was referred to this Honorable Court. On the date requested, 221 days will have elapsed since docketing and 210 days since the date the record was referred to this Honorable Court.

On 17 April 2024, a special court-martial consisting of a military judge alone at Dyess Air Force Base, Texas, found Appellant guilty, inconsistent to his pleas, of one charge and one specification of communication a threat in violation of Article 115, Uniform Code of Military

Justice (UCMJ).<sup>1</sup> Record of Trial (ROT), Entry of Judgment (EOJ), dated 16 May 2024; Record (R.) at 135. The military judge sentenced Appellant to be reprimanded and reduced to the grade of E-3. R. at 135; EOJ.

The Convening Authority took no action on the findings or sentence. ROT, Convening Authority Decision on Action – *United States v. SrA Zechariah S. Hughes*, dated 9 May 2024.

The electronic ROT is 1 volume and consists of 6 Prosecution Exhibits, 8 Defense Exhibits, and 12 Appellate Exhibits; the transcript is 172 pages. Appellant is not currently confined.

The undersigned counsel is currently assigned 24 cases; 21 cases are pending before this Court (20 cases are pending AOE). To date, ten cases have priority over the present case.

1. *United States v. Cabrie*, No ACM 40615 – The ROT is 3 volumes and consists of 5 Prosecution Exhibits, 6 Defense Exhibits, and 12 Appellate Exhibits; the transcript is 138 pages. Appellant is not currently confined. Counsel has begun drafting the AOE.

2. *United States v. Capers*, No ACM 40641 – The electronic ROT is 1 volume and consists of 3 Prosecution Exhibits, 5 Defense Exhibits, 14 Appellate Exhibits, and 4 Court Exhibits; the transcript is 405 pages. Counsel has begun, but not completed, her review of the record of trial.

3. *United States v. Griffin*, No ACM 40641 – The ROT is 6 volumes and consists of 24 Prosecution Exhibits, 29 Defense Exhibits, 30 Appellate Exhibits, and 1 Court Exhibits; the transcript is 605 pages. Appellant is currently confined. Counsel has begun, but not completed, her review of the record of trial.

---

<sup>1</sup> Appellate was acquitted of the remaining charges and specifications. R. at 135.

4. *United States v. Anderson*, No. ACM 40654 – The ROT is 12 volumes and consists of 15 Prosecution Exhibits, 14 Defense Exhibits, and 96 Appellate Exhibits; the transcript is 1229 pages. Appellant is currently confined. Although this case was docketed on 13 August 2024, undersigned counsel has prioritized this case to keep pace with the Appellant’s civilian counsel.

5. *United States v. Hooker*, No. ACM 40646 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

6. *United States v. Roedel*, No. ACM 40662 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

7. *United States v. Coley*, No. ACM 40675 – The electronic record of trial is 1 volume and consists of 13 Prosecution Exhibits, 1 Defense Exhibit, and 17 Appellate Exhibits; the transcript is 124 pages. Appellant is currently confined.

8. *United States v. Nesbitt*, No. ACM 40679 - The electronic ROT is 6 volumes and consists of 6 Prosecution Exhibits, 0 Defense Exhibits, 65 Appellate Exhibits, and 2 Court Exhibits; the transcript is 373 pages. Appellant is currently confined.

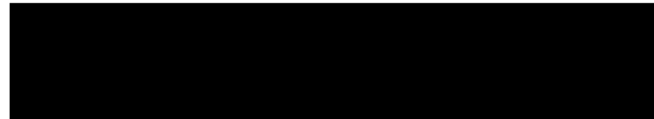
9. *United States v. Osorno*, No. ACM S32792 - The ROT is 2 volumes and consists of 3 Prosecution Exhibits, 4 Defense Exhibits, and 9 Appellate Exhibits; the transcript is 81 pages. Appellant is not currently confined.

10. *United States v. Szabo*, No. ACM 40590 - The ROT is 12 volume and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



**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 April 2025.

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



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

|                            |   |                        |
|----------------------------|---|------------------------|
| <b>UNITED STATES,</b>      | ) | UNITED STATES' GENERAL |
|                            | ) | OPPOSITION TO          |
| <i>Appellee,</i>           | ) | APPELLANT'S MOTION FOR |
|                            | ) | ENLARGEMENT OF TIME    |
| v.                         | ) |                        |
|                            | ) | Before Panel No. 1     |
| Senior Airman (E-4)        | ) |                        |
| <b>ZECHARIAH S. HUGHES</b> | ) | No. ACM 24066          |
| United States Air Force.   | ) |                        |
| <i>Appellant</i>           | ) | 18 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.



JOCÉLYN 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 April 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**

|                             |   |                                  |
|-----------------------------|---|----------------------------------|
| <b>UNITED STATES</b>        | ) | <b>MOTION FOR ENLARGEMENT OF</b> |
| <i>Appellee,</i>            | ) | <b>TIME (FIFTH)</b>              |
|                             | ) |                                  |
| v.                          | ) | Before Panel No. 1               |
|                             | ) |                                  |
| Senior Airman (E-4)         | ) | No. ACM 24066                    |
| <b>ZECHARIAH S. HUGHES,</b> | ) |                                  |
| United States Air Force,    | ) | 15 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)(1) and (3) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **25 June 2025**.

Appellant’s direct appeal was docketed with this Court on 17 October 2024. At the time of docketing, the Court had not received the record of trial and ordered it delivered forthwith. *Notice of Docketing*, dated 17 October 2024. The Government delivered the record of trial to the Court on 28 October 2024, 11 days after docketing. Pursuant to Rule 18(d) of this Honorable Court’s Rules of Practice and Procedure, 28 October 2024 is the appropriate date to use when computing the timing of Appellant’s filings. From the date of docketing to the present date, 210 days have elapsed, 199 from the date the record was referred to this Honorable Court. On the date requested, 251 days will have elapsed since docketing and 240 days since the date the record was referred to this Honorable Court.

On 17 April 2024, a special court-martial consisting of a military judge alone at Dyess Air Force Base, Texas, found Appellant guilty, inconsistent to his pleas, of one charge and one specification of communication a threat in violation of Article 115, Uniform Code of Military

Justice (UCMJ).<sup>1</sup> Record of Trial (ROT), Entry of Judgment (EOJ), dated 16 May 2024; Record (R.) at 135. The military judge sentenced Appellant to be reprimanded and reduced to the grade of E-3. R. at 135; EOJ.

The Convening Authority took no action on the findings or sentence. ROT, Convening Authority Decision on Action – *United States v. SrA Zechariah S. Hughes*, dated 9 May 2024.

The electronic ROT is 1 volume and consists of 6 Prosecution Exhibits, 8 Defense Exhibits, and 12 Appellate Exhibits; the transcript is 172 pages. Appellant is not currently confined.

The undersigned counsel is currently assigned 25 cases; 21 cases are pending before this Court (20 cases are pending AOE). To date, eight cases have priority over the present case.

1. *United States v. Capers*, No ACM 40641 – The electronic ROT is 1 volume and consists of 3 Prosecution Exhibits, 5 Defense Exhibits, 14 Appellate Exhibits, and 4 Court Exhibits; the transcript is 405 pages. Counsel has completed her review of the ROT and is finalizing the AOE.

2. *United States v. Griffin*, No ACM 40641 – The ROT is 6 volumes and consists of 24 Prosecution Exhibits, 29 Defense Exhibits, 30 Appellate Exhibits, and 1 Court Exhibits; the transcript is 605 pages. Appellant is currently confined. Counsel has begun, but not completed, her review of the record of trial.

3. *United States v. Hooker*, No. ACM 40646 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

---

<sup>1</sup> Appellate was acquitted of the remaining charges and specifications. R. at 135.

4. *United States v. Roedel*, No. ACM 40662 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

5. *United States v. Coley*, No. ACM 40675 – The electronic record of trial is 1 volume and consists of 13 Prosecution Exhibits, 1 Defense Exhibit, and 17 Appellate Exhibits; the transcript is 124 pages. Appellant is currently confined.

6. *United States v. Nesbitt*, No. ACM 40679 - The electronic ROT is 6 volumes and consists of 6 Prosecution Exhibits, 0 Defense Exhibits, 65 Appellate Exhibits, and 2 Court Exhibits; the transcript is 373 pages. Appellant is currently confined.

7. *United States v. Osorno*, No. ACM S32792 - The ROT is 2 volumes and consists of 3 Prosecution Exhibits, 4 Defense Exhibits, and 9 Appellate Exhibits; the transcript is 81 pages. Appellant is not currently confined.

8. *United States v. Szabo*, No. ACM 40590 - The ROT is 12 volume and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



**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 May 2025.

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



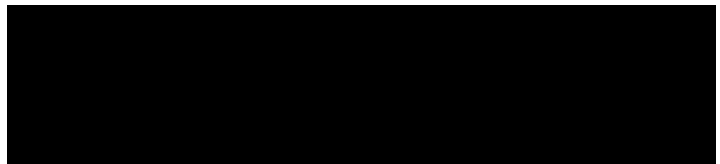
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

|                             |   |                        |
|-----------------------------|---|------------------------|
| <b>UNITED STATES,</b>       | ) | UNITED STATES' GENERAL |
|                             | ) | OPPOSITION TO          |
| <i>Appellee,</i>            | ) | APPELLANT'S MOTION FOR |
|                             | ) | ENLARGEMENT OF TIME    |
| v.                          | ) |                        |
|                             | ) | Before Panel No. 1     |
| Senior Airman (E-4)         | ) |                        |
| <b>ZECHARIAH S. HUGHES,</b> | ) | No. ACM 24066          |
| United States Air Force.    | ) |                        |
| <i>Appellant</i>            | ) | 19 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.

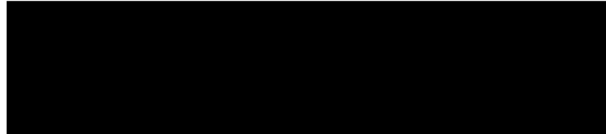
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 19 May 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

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

|                             |   |                               |
|-----------------------------|---|-------------------------------|
| <b>UNITED STATES</b>        | ) | <b>MOTION FOR ENLARGEMENT</b> |
| <i>Appellee,</i>            | ) | <b>OF TIME (SIXTH)</b>        |
|                             | ) |                               |
| v.                          | ) | Before Panel No. 1            |
|                             | ) |                               |
| Senior Airman (E-4)         | ) | No. ACM 24066                 |
| <b>ZECHARIAH S. HUGHES,</b> | ) |                               |
| 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)(1) and (3) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **25 July 2025**.

Appellant’s direct appeal was docketed with this Court on 17 October 2024. At the time of docketing, the Court had not received the record of trial and ordered it delivered forthwith. *Notice of Docketing*, dated 17 October 2024. The Government delivered the record of trial to the Court on 28 October 2024, 11 days after docketing. Pursuant to Rule 18(d) of this Honorable Court’s Rules of Practice and Procedure, 28 October 2024 is the appropriate date to use when computing the timing of Appellant’s filings. From the date of docketing to the present date, 242 days have elapsed, 231 from the date the record was referred to this Honorable Court. On the date requested, 281 days will have elapsed since docketing and 270 days since the date the record was referred to this Honorable Court.

On 17 April 2024, a special court-martial consisting of a military judge alone at Dyess Air Force Base, Texas, found Appellant guilty, inconsistent to his pleas, of one charge and one specification of communication a threat in violation of Article 115, Uniform Code of Military

Justice (UCMJ).<sup>1</sup> Record of Trial (ROT), Entry of Judgment (EOJ), dated 16 May 2024; Record (R.) at 135. The military judge sentenced Appellant to be reprimanded and reduced to the grade of E-3. R. at 135; EOJ.

The Convening Authority took no action on the findings or sentence. ROT, Convening Authority Decision on Action – *United States v. SrA Zechariah S. Hughes*, dated 9 May 2024.

The electronic ROT is 1 volume and consists of 6 Prosecution Exhibits, 8 Defense Exhibits, and 12 Appellate Exhibits; the transcript is 172 pages. Appellant is not currently confined.

The undersigned counsel is currently assigned 27 cases; 18 cases are pending before this Court (18 cases are pending AOE). To date, seven cases have priority over the present case.

1. *United States v. Griffin*, No ACM 40641 – The ROT is 6 volumes and consists of 24 Prosecution Exhibits, 29 Defense Exhibits, 30 Appellate Exhibits, and 1 Court Exhibits; the transcript is 605 pages. Appellant is currently confined. Counsel has begun, but not completed, her review of the record of trial.

2. *United States v. Hooker*, No. ACM 40646 – The electronic ROT is 1 volume and consists of 4 Prosecution Exhibits, 16 Defense Exhibits, and 32 Appellate Exhibits; the transcript is 683 pages. Appellant is currently confined.

3. *United States v. Roedel*, No. ACM 40662 – The electronic ROT is 1 volume and consists of 1 Prosecution Exhibits, 0 Defense Exhibits, and 11 Appellate Exhibits; the transcript is 1242 pages. Appellant is currently confined.

---

<sup>1</sup> Appellate was acquitted of the remaining charges and specifications. R. at 135.

4. *United States v. Coley*, No. ACM 40675 – The electronic record of trial is 1 volume and consists of 13 Prosecution Exhibits, 1 Defense Exhibit, and 17 Appellate Exhibits; the transcript is 124 pages. Appellant is currently confined.

5. *United States v. Nesbitt*, No. ACM 40679 - The electronic ROT is 6 volumes and consists of 6 Prosecution Exhibits, 0 Defense Exhibits, 65 Appellate Exhibits, and 2 Court Exhibits; the transcript is 373 pages. Appellant is currently confined.

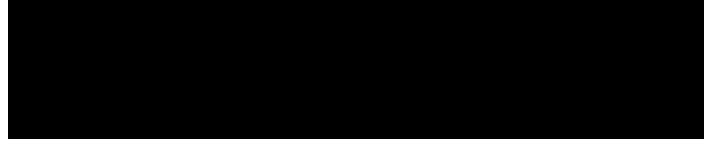
6. *United States v. Osorno*, No. ACM S32792 - The ROT is 2 volumes and consists of 3 Prosecution Exhibits, 4 Defense Exhibits, and 9 Appellate Exhibits; the transcript is 81 pages. Appellant is not currently confined.

7. *United States v. Szabo*, No. ACM 40590 - The ROT is 12 volume and consists of 7 Prosecution Exhibits, 35 Defense Exhibits, and 121 Appellate Exhibits; the transcript is 1495 pages. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete her review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised on his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



**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,



JOYCLIN N. WEBSTER, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770



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

|                                   |   |                           |
|-----------------------------------|---|---------------------------|
| <b>UNITED STATES,</b>             | ) | UNITED STATES' GENERAL    |
| <i>Appellee,</i>                  | ) | OPPOSITION TO APPELLANT'S |
|                                   | ) | MOTION FOR ENLARGEMENT    |
| v.                                | ) | OF TIME                   |
|                                   | ) |                           |
| Senior Airman (E-4)               | ) | Before Panel No. 1        |
| <b>ZECHARIAH S. HUGHES, USAF,</b> | ) |                           |
| <i>Appellant.</i>                 | ) | No. ACM 24066             |
|                                   | ) |                           |
|                                   | ) | 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**

|                             |   |                               |
|-----------------------------|---|-------------------------------|
| <b>UNITED STATES</b>        | ) | <b>MOTION FOR ENLARGEMENT</b> |
| <i>Appellee,</i>            | ) | <b>OF TIME (SEVENTH)</b>      |
|                             | ) |                               |
| v.                          | ) | Before Panel No. 1            |
|                             | ) |                               |
| Senior Airman (E-4)         | ) | No. ACM 24066                 |
| <b>ZECHARIAH S. HUGHES,</b> | ) |                               |
| 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)(1) and (3) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **24 August 2025**.

Appellant’s direct appeal was docketed with this Court on 17 October 2024. At the time of docketing, the Court had not received the record of trial and ordered it delivered forthwith. *Notice of Docketing*, dated 17 October 2024. The Government delivered the record of trial to the Court on 28 October 2024, 11 days after docketing. Pursuant to Rule 18(d) of this Honorable Court’s Rules of Practice and Procedure, 28 October 2024 is the appropriate date to use when computing the timing of Appellant’s filings. From the date of docketing to the present date, 271 days have elapsed, 260 from the date the record was referred to this Honorable Court. On the date requested, 311 days will have elapsed since docketing and 300 days since the date the record was referred to this Honorable Court.

On 17 April 2024, a special court-martial consisting of a military judge alone at Dyess Air Force Base, Texas, found Appellant guilty, inconsistent to his pleas, of one charge and one specification of communication a threat in violation of Article 115, Uniform Code of Military

Justice (UCMJ).<sup>1</sup> Record of Trial (ROT), Entry of Judgment (EOJ), dated 16 May 2024; Record (R.) at 135. The military judge sentenced Appellant to be reprimanded and reduced to the grade of E-3. R. at 135; EOJ.



The Convening Authority took no action on the findings or sentence. ROT, Convening Authority Decision on Action – *United States v. SrA Zechariah S. Hughes*, dated 9 May 2024.

The electronic ROT is 1 volume and consists of 6 Prosecution Exhibits, 8 Defense Exhibits, and 12 Appellate Exhibits; the transcript is 172 pages. Appellant is not currently confined.

Undersigned counsel has just been detailed to this case and has scheduled Individual Training Days to review Appellant's case within the enlarged period and will consult with the Appellant and advise him regarding his rights and this Court's order.

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

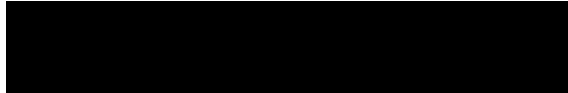
Respectfully submitted,

  
JARETT MERK, Lt Col, USAFR  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
(240) 612-4770  


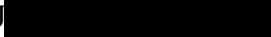
**CERTIFICATE OF FILING AND SERVICE**

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

Respectfully submitted,

A large black rectangular redaction box covering the signature area.

JARETT MERK, Lt Col, USAFR  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
(240) 612-4770

J 



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

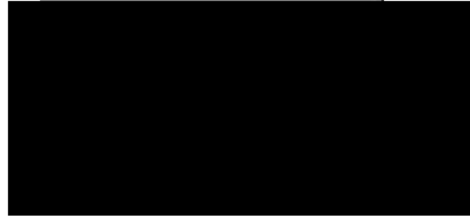
|                                   |   |                           |
|-----------------------------------|---|---------------------------|
| <b>UNITED STATES,</b>             | ) | UNITED STATES'            |
| <i>Appellee,</i>                  | ) | OPPOSITION TO APPELLANT'S |
|                                   | ) | MOTION FOR ENLARGEMENT    |
| v.                                | ) | OF TIME – OUT OF TIME     |
|                                   | ) |                           |
| Senior Airman (E-4)               | ) | Before Panel No. 1        |
| <b>ZECHARIAH S. HUGHES, USAF,</b> | ) |                           |
| <i>Appellant.</i>                 | ) | No. ACM 24066             |
|                                   | ) |                           |
|                                   | ) | 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 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.

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 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 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**

|                             |   |                               |
|-----------------------------|---|-------------------------------|
| <b>UNITED STATES</b>        | ) | <b>MOTION FOR ENLARGEMENT</b> |
| <i>Appellee,</i>            | ) | <b>OF TIME (EIGHTH)</b>       |
|                             | ) |                               |
| v.                          | ) | Before Panel No. 1            |
|                             | ) |                               |
| Senior Airman (E-4)         | ) | No. ACM 24066                 |
| <b>ZECHARIAH S. HUGHES,</b> | ) |                               |
| United States Air Force,    | ) | 14 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)(1) and (3) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **24 September 2025.**

Appellant’s direct appeal was docketed with this Court on 17 October 2024. At the time of docketing, the Court had not received the record of trial and ordered it delivered forthwith. *Notice of Docketing*, dated 17 October 2024. The Government delivered the record of trial to the Court on 28 October 2024, 11 days after docketing. Pursuant to Rule 18(d) of this Honorable Court’s Rules of Practice and Procedure, 28 October 2024 is the appropriate date to use when computing the timing of Appellant’s filings. From the date of docketing to the present date, 301 days have elapsed, 290 from the date the record was referred to this Honorable Court. On the date requested, 343 days will have elapsed since docketing and 332 days since the date the record was referred to this Honorable Court.

On 17 April 2024, a special court-martial consisting of a military judge alone at Dyess Air Force Base, Texas, found Appellant guilty, inconsistent to his pleas, of one charge and one specification of communication a threat in violation of Article 115, Uniform Code of Military

Justice (UCMJ).<sup>1</sup> Record of Trial (ROT), Entry of Judgment (EOJ), dated 16 May 2024; Record (R.) at 135. The military judge sentenced Appellant to be reprimanded and reduced to the grade of E-3. R. at 135; EOJ.

The Convening Authority took no action on the findings or sentence. ROT, Convening Authority Decision on Action – *United States v. SrA Zechariah S. Hughes*, dated 9 May 2024.

The electronic ROT is 1 volume and consists of 6 Prosecution Exhibits, 8 Defense Exhibits, and 12 Appellate Exhibits; the transcript is 172 pages. Appellant is not currently confined.

Undersigned counsel was recently detailed to this case and this is undersigned counsel's second request for an enlargement of time. Appellant's case is undersigned counsel's first priority. I have scheduled Individual Training Days to review Appellant's case within the enlarged period and will consult with the Appellant and advise him regarding his rights and this Court's order.

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

Respectfully submitted,



JARETT MERK, Lt Col, USAFR  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
(240) 612-4770



**CERTIFICATE OF FILING AND SERVICE**

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

Respectfully submitted,

A large black rectangular redaction box covering the signature of Jarett Merk.

JARETT MERK, Lt Col, USAFR  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
(240) 612-4770

A small black rectangular redaction box covering the bottom portion of the contact information.



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

|                             |   |                           |
|-----------------------------|---|---------------------------|
| <b>UNITED STATES,</b>       | ) | UNITED STATES’            |
| <i>Appellee,</i>            | ) | OPPOSITION TO APPELLANT’S |
|                             | ) | MOTION FOR ENLARGEMENT    |
| v.                          | ) | OF TIME                   |
|                             | ) |                           |
| Senior Airman (E-4)         | ) | Before Panel No. 1        |
| <b>ZECHARIAH S. HUGHES,</b> | ) |                           |
| United States Air Force,    | ) | No. ACM 24066             |
| <i>Appellant.</i>           | ) |                           |
|                             | ) | 18 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 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 332 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 7 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 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 18 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

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

|                     |   |                |
|---------------------|---|----------------|
| UNITED STATES       | ) | No. ACM 24066  |
| <i>Appellee</i>     | ) |                |
|                     | ) |                |
| v.                  | ) |                |
|                     | ) | <b>ORDER</b>   |
| Zechariah S. HUGHES | ) |                |
| Senior Airman (E-4) | ) |                |
| U.S. Air Force      | ) |                |
| <i>Appellant</i>    | ) | <b>Panel 1</b> |

On 14 August 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Eighth), requesting an additional 30 days to submit Appellant’s assignments of error, which Appellant states, “will end on 24 September 2025,” and that “332 days” will have elapsed “since the date the record was referred to [this court].” The Government opposes the motion.

The court notes the delay between the date this court received the record of trial on 28 October 2024 and the requested date of 24 September 2025 is 331 days. The court also notes that 30 days from Appellant’s current due date of 24 August 2025 to submit any assignments of error is 23 September 2025.

The court has considered Appellant’s motion, the Government’s opposition, prior filings in this case, case law, and this court’s Rules of Practice and Procedure. Accordingly, it is by the court on this 19th day of August, 2025,

**ORDERED:**

Appellant’s Motion for Enlargement of Time (Eighth) is **GRANTED IN PART**. Appellant shall file any assignments of error not later than **23 September 2025**.

Further requests by Appellant for enlargements of time may necessitate a status conference.



FOR THE COURT



AGNIESZKA M. GAERTNER, Capt, USAF  
Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

|                          |   |                    |
|--------------------------|---|--------------------|
| UNITED STATES            | ) | BRIEF ON BEHALF OF |
| Appellee,                | ) | APPELLANT          |
|                          | ) |                    |
| v.                       | ) | Before Panel No. 1 |
|                          | ) |                    |
| Senior Airman (E-4)      | ) | No. ACM 24066      |
| ZECHARIAH S. HUGHES,     | ) |                    |
| United States Air Force, | ) | 23 September 2025  |
| Appellant.               | ) |                    |

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

**Assignment of Error**

WHETHER APPELLANT'S CONVICTION FOR COMMUNICATING A THREAT IN  
VIOLATION OF ARTICLE 115, UCMJ IS LEGALLY AND FACTUALLY  
SUFFICIENT.

**Statement of the Case**

On 17 April 2024, a special court-martial consisting of a military judge alone at Dyess Air Force Base, Texas, acquitted Appellant of one Charge with three Specifications in violation of Article 92, Uniform Code of Military (UCMJ), and of one Charge and Specification in violation of Article 128, UCMJ. Record of Trial (ROT), Entry of Judgment (EOJ), dated 16 May 2024; Record (R.) at 135. Contrary to his plea, Appellant was convicted by the military judge of one Additional Charge and Specification for communicating a threat in violation of Article 115, UCMJ. *Id.*

The military judge sentenced Appellant to be reprimanded and reduced to the grade of E-3. *Id.* The Convening Authority took no action on the findings or sentence. ROT, Convening Authority Decision on Action – *United States v. SrA Zechariah S. Hughes*, dated 9 May 2024.

## Statement of Facts

As an Additional Charge, the government alleged that Appellant threatened Staff Sergeant Kernodle when he said to Mr. Niles that he was going to “Fuck him [SSgt Kernodle] up.” Statement of Trial Results, dated 19 April 2024.

a. Then-Senior Airman Jeremiah Niles’ testimony.<sup>1</sup>

According to Mr. Niles’ version of events, he was in the office with Appellant and the “rest of the shop” when “supervision” arrived, saw people with their feet up on tables and on their phones, and instructed everyone to stop doing those things. R. 84. As soon as supervision left, Appellant put his feet back up on a table. R. 84. SSgt Kernodle saw this and “told him not to.” *Id.* Then, as SSgt Kernodle was leaving the office, Appellant said out loud, “If he tells me what to do again, I’m going to beat his ass.” R 84, 90. Mr. Niles did not report this statement as a threat and went back to work as normal after it was said. R. 84, 90-1.

b. Staff Sergeant Casey Kernodle’s testimony.

For SSgt Kernodle, the details surrounding this alleged incident “didn’t really stick.” R. 75. SSgt Kernodle recalled a “negative interaction” between Appellant and him sometime after October 2022 and before he left Dyess AFB in February 2023. R. 75-6. He described the interaction as taking place in the office he shared with Appellant. R. 76. According to SSgt Kernodle, Appellant was on his phone in the office while everyone else from the shop was out doing work. R. 75. SSgt Kernodle saw this and told Appellant to get off his phone. R. 75. SSgt Kernodle

---

<sup>1</sup> SrA Niles had separated from the Air Force by the time he testified at Appellant’s trial and was sworn at trial as Mr. Jeremiah Niles. Hereafter, he will be referred to as Mr. Niles in this brief.

claims Appellant responded to him by saying “something to the effect of that he was going to ‘Fuck me up.’” R. 75. Nothing else was said, and SSgt Kernodle sat back down at his desk opposite Appellant and continued with what he was working on. R. 76, 79.

c. Motion for a finding of not guilty and closing argument.

At the close of the government’s case, the defense moved for a finding of not guilty under Rules for Courts-Martial 917. R. 104. Regarding the Additional Charge, defense counsel argued, *inter alia*, that there was no evidence the communication was “wrongful,” specifically that “if Senior Airman Hughes transmitted this statement for the purpose of issuing a threat or with the knowledge that it would be viewed as a threat.” R. 105. Trial counsel responded that the wrongfulness element was satisfied because “there’s no legal justification for the threat is [sic] de facto wrongful.” R. 114.

The military judge orally denied the defense motion. R. 116.

Trial counsel argued during closing that “the third element [of Article 115, UCMJ] requires the government to prove that the communication was wrongful. At no point is it ever acceptable to threaten another airman.” R. 123-4.

Additional facts necessary to the resolution of the stated issue are contained within the section below.

### **Argument**

### **APPELLANT’S CONVICTION FOR COMMUNICATING A THREAT IS LEGALLY AND FACTUALLY INSUFFICIENT.**

#### Standard of Review

This Court reviews issues of legal and factual sufficiency de novo. Article 66(d),

UCMJ, 10 U.S.C. § 866(d); *United States v. Washington*, 57 M.J. 394, 399 (C.A.A.F. 2002).

### **Law and Analysis**

This Court “may affirm only such findings of guilty as the Court finds correct in law, and in fact in accordance with subparagraph (B).” Art. 66(d)(1)(A), UCMJ, 10 U.S.C. § 866(d)(1)(A).

a. Legal Sufficiency Standard.

“The test for legal sufficiency is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *United States v. Robinson*, 77 M.J. 294, 297–98 (C.A.A.F. 2018) (citation omitted). When resolving questions of legal sufficiency, the court draws all reasonable inferences from the evidence of record in favor of the prosecution. *United States v. Barner*, 56 M.J. 131, 134 (C.A.A.F. 2001) (citations omitted). The test “gives full play to the responsibility of the trier of fact fairly to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts.” *United States v. Oliver*, 70 M.J. 64, 68 (C.A.A.F. 2011) (internal quotation omitted). While the standard for legal sufficiency involves a low threshold to sustain a conviction, it does not mean that there is no threshold at all. *United States v. King*, 78 M.J. 218, 221 (C.A.A.F. 2019).

b. Factual Sufficiency Standard.

For offenses occurring after 1 January 2021, this Court “may consider whether the finding is correct in fact upon request of the accused if the accused makes a specific showing of a deficiency in proof.” Article 66(d)(1)(B)(i), UCMJ, 10 U.S.C. §

866(d)(1)(B)(i) (Manual for Courts-Martial, United States (2024 ed.) (2024 MCM)). If “the Court is clearly convinced that the finding of guilty was against the weight of the evidence, the Court may dismiss, set aside, or modify the finding.” *Id.* This standard does not require an appellant to show a total lack of evidence supporting an element, which would be redundant with legal sufficiency review. *United States v. Csiti*, No. ACM 40386, 2024 CCA LEXIS 160, at \*18 (A.F. Ct. Crim. App. Apr. 29, 2024) (unpub. op.). Article 66(d)(1)(B)(iii), UCMJ; 10 U.S.C. § 866(d)(1)(B)(iii) (2024 MCM).

For the Court to be “clearly convinced that the finding of guilty was against the weight of the evidence, two requirements must be met. First, [the Court] must decide that the evidence, as [the Court] has weighed it, does not prove that the appellant is guilty beyond a reasonable doubt. Second, [the Court] must be clearly convinced of the correctness of this decision.” *United States v. Harvey*, No. 23-0239, 2024 CAAF LEXIS 502, at \*12 (C.A.A.F. 6 Sep. 2024).

c. The Elements that the Government failed to prove beyond a reasonable doubt.

As charged, to convict Appellant of communicating a threat, pursuant to Article 115, UCMJ, the government was required to prove beyond a reasonable doubt the following three elements: (1) that Appellant communicated certain language, specifically he would “fuck him [SSgt Kernodle] up, or words to that effect,” which expressed a present determination or intent to injure the person or another person, presently or in the future; (2) that the communication was made known to that person or to a third person, namely then-Senior Airman Jeremiah Niles and (3) that the communication was wrongful. Manual for Courts-Martial, United States (2019 ed.) (MCM), pt. IV, 53.b.(1).

Central to this case is the distinction between the first and third elements of communicating a threat. This was recently addressed by the United States Court of Appeals for the Armed Forces (CAAF) in *United States v. Harrington*, 83 M.J. 408 (C.A.A.F. 2023). The first element of communicating a threat requires an objective inquiry, analyzing the stated language from the viewpoint of a “reasonable person in the recipient’s place.” This objective inquiry does not occur in a vacuum. Instead, it examines both the communication itself as well as its surrounding context, which may qualify or belie the literal meaning of the language. *Id.* Restated, the first element asks whether certain language was said and whether a reasonable person in the recipient’s place could find that the language stated constitutes a threatening declaration. *United States v. Phillips*, 42 M.J. 127, 129 (C.A.A.F. 1995); *United States v. Rapert*, 75 M.J. 164, 167-8 (C.A.A.F. 2016)<sup>2</sup>.

In contrast to the first element, the third element’s requirement of wrongfulness focuses on the speaker’s subjective intent. Words alone do not constitute the crime of communicating a threat. The government must prove that the speaker had a guilty mind before criminal liability can attach. *Id.* This element is independent of the language used. It requires more than merely arguing that the

---

<sup>2</sup> In *Rapert*, CAAF analyzed communicating a threat in the context of Article 134, UCMJ, 10 U.S.C. § 934. The applicable version of the offense of communicating a threat for this case is contained in Article 115, UCMJ (effective 1 January 2019). However, this Court has recognized that the substantive elements of the Article 115 version of the offense mirror the elements contained in the Article 134 version of the offense, with the exception that “proof of the Article 134 ‘terminal element’ is no longer applicable.” *United States v. Myers*, No. ACM S32749 (A.F.C.C.A 22 August 2024). See also MCM, App. 17, ¶ 53, at A17-9. The MCM also explicitly notes that in migrating the offense from Article 134 to Article 115, UCMJ, it is explicitly incorporating the prior caselaw interpretations of “threat” and “wrongful” to the Article 115, UCMJ, version. See *id.*

language itself is literally or objectively threatening because to do so would render this third element redundant to the first. *Id.* Instead, the government must independently prove that the speaker's true intention was that his words would be understood by the listener as sincere. *Id. See also, Harrington*, 83 M.J. at 408.

d. The finding of guilt is legally insufficient because the government failed to establish any evidence that Appellant's statement was wrongful.

Here, the finding is legally insufficient because the government failed to establish any evidence that Appellant's language was wrongful (element three). Glossing over the fact, for a moment, that the government could not establish with any degree of clarity what language was actually spoken or to whom it was spoken, the government provided no evidence that shows Appellant intended any listener to believe he was sincerely going "beat [SSgt Kernodle's] ass" or "fuck him up."

Instead, Trial Counsel focused on how SSgt Kernodle interpreted the language spoken, but the gravamen of element three is Appellant's true intention, not SSgt Kernodle's perception. *Rapert*, 75 M.J. 167-8. The government was required to go beyond the language. While the language is vulgar, the phrases "beat his ass" or "fuck him up" are relatively common expressions and not particularly menacing on their face. Without more, this language gives no insight into Appellant's subjective intent and is not evidence of wrongfulness. Even viewing the evidence in the light most favorable to the prosecution, no rational trier of fact could have found the essential elements of wrongfulness beyond a reasonable doubt and this Court must set aside the finding. *Robinson*, 77 M.J. at 297-98.

- e. The finding of guilt is factually insufficient because the evidence does not prove that Appellant is guilty beyond a reasonable doubt.

The findings are also factually insufficient because the government failed to prove each element beyond a reasonable doubt. First, the only two witnesses the government could provide disagreed on the language that was said. SSgt Kernodle claims the language was “Fuck him up” but Mr. Niles’s recalled Appellant saying, “If he tells me what to do again, I’m going to beat his ass.” R.75, 84. The language Mr. Niles alleged is conditional and does not represent a present determination or intent to injure SSgt Kernodle and fails for that reason.

Second, the government failed to establish beyond a reasonable doubt that the charged language was indeed said to Mr. Niles. The military judge found Appellant guilty of the Additional Charge without exceptions or substitutions. Therefore, the military judge found that Appellant stated to Mr. Niles that he would “Fuck him [SSgt Kernodle] up, or words to that effect.” EOJ. But such a finding means the military judge found SSgt Kernodle credible about what was said, but not to whom it was said. R. 75. But then also found Mr. Niles credible about to whom it was said but not on what was said. R. 84. This illogical weighing of the evidence undermines confidence in the verdict and warrants reevaluation and re-weighing by this Court.

As to wrongfulness element, again the government presented no evidence – a fact that is amplified by Trial counsel’s closing argument. “The third element [of Article 115, UCMJ] requires the government to prove that the communication was wrongful. At no point is it ever acceptable to threaten another airman.” R. 123-4. Trial Counsel argues that the government met its burden by conflating element three with element one and thereby eliminating the mens rea requirement and the need for

any evidence of Appellant's subjective intent. Such sleight of hand with the essential elements of the crime cannot stand. *Harrington*, 83 M.J. at 414 (*citing Rapert*, 75 M.J. at 169) (noting the third element's requirement of wrongfulness is properly understood in relation to the subjective intent of the speaker).

Trial Counsel admits by omission that the government failed to prove that Appellant intended the listener to believe his statement was sincere; and Appellant's conviction should be reversed on this reason alone. *Harrington*, 83 M.J. at 414 (*citing Rapert*, 75 M.J. at 169). The utterance itself, even if the language is objectively threatening, provides no evidence toward carrying that burden. To argue otherwise would render element three superfluous. *Rapert*, 75 M.J. at 169. But this was all Trial Counsel could argue because there were no facts in the record to demonstrate Appellant had any criminal intent.

Despite the alleged public nature of Appellant's statement, the government could find no other witnesses, and the witnesses it did find provided no description of Appellant's demeanor, tone, mood, or actions. The record is devoid of any evidence that Appellant used hostile gestures, facial expressions, or mannerisms that day. There is no evidence that his statement was made in an angry tone, or that it was delivered in a raised tone or in a hostile or intimidating manner. The government bears the burden of establishing such facts to prove beyond a reasonable doubt that Appellant's subject intent was criminal vice innocent petulance or insincere venting. It failed and this Court should be clearly convinced that Appellant was convicted against the weight of the evidence.

WHEREFORE, Appellant respectfully requests this Honorable Court set aside

the finding of guilty and sentence and dismiss the Additional Charge and its Specification with prejudice.

Respectfully submitted,



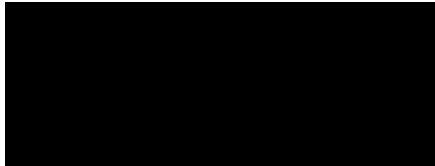
JARETT MERK, Lt Col, USAFR  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite  
1100 Joint Base Andrews NAF, MD  
20762-6604  
(240) 612-4770



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 23 September 2025

Respectfully submitted,



JARETT MERK, Lt Col, USAFR  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite  
1100 Joint Base Andrews NAF, MD  
20762-6604  
(240) 612-4770

J 





on our phones” when they were inside because it did not look good. (Id.) CK remembered telling Appellant to get off his phone because everyone else in the office on his shop was out doing work. (Id.) CK testified, “I remember correcting and telling him he had to get off his phone, and he did have a negative reaction.” (Id.) CK testified that it had “been quite a while, so I don’t remember verbatim, but [it was] something to the effect of that he was going to ‘Fuck me up.’” (Id.) CK knew the statement came from Appellant because “he has a very distinctive voice.” (R. at 77.) CK could not recall if others were in the room, stating “for me this didn’t really stick all the details of what all happened.” (R. at 77.)

JN, a Senior Airman at the time of the incident, testified about his recollection of the incident. JN testified that the parties’ supervision came into the office, saw that people had their feet on the table and were on their phones and told them not to do that. (R. at 84.) JN said that as soon as the supervision left, Appellant put his feet back on the table. JN stated that CK told Appellant not to do that and, as CK was walking out of the office, Appellant said, “If he tells me what to do, I’m going to beat his ass.” (Id.) JN testified, “[Appellant] just said it aloud in the room,” and that the “rest of the shop at the time” was in the room. (Id.)

#### *After the Threat*

When asked to describe his feelings after the statement, CK testified, “I mean, frustrated, upset. A little worried that he could have done it, but, you know my world didn’t come crashing down or anything like that.” (R. at 76.) On cross examination, when asked if he felt terrified, CK testified, “Not necessarily terrified. I have a very -- when it comes to that sort of thing -- I don’t necessarily get worried with threats in general. So, no, I wasn’t anymore mortified than [if] some random person on the street said something the same.” (R. at 79.) However, CK indicated that he understood Appellant’s statement as a threat and believed Appellant could have acted on his threat.

(R. at 79-80.) When asked if he took Appellant’s statement seriously, CK responded, “I took it as it was a threat; however, do I think that he would do it? I have, again, I could see him doing it at the same point, not. So, I was just kind of, again, could go either way.” (R. at 79.) CK did not report Appellant to his shirt, commander, or law enforcement. (Id.)

## **ARGUMENT**

### **APPELLANT’S CONVICTION FOR COMMUNICATING A THREAT IS LEGALLY AND FACTUALLY SUFFICIENT.**

#### *Additional Facts*

Specification of Additional Charge, in violation of Article 115 UCMJ, as provided on the charge sheet, reads as follows:

In that SENIOR AIRMAN ZECHARIAH S. HUGHES, United States Air Force, 317th Aircraft Maintenance Squadron, Dyess Air Force Base, Texas, did, within the State of Texas, between on or about 1 September 2022 and on or about 31 December 2022, wrongfully communicate to [JN] a threat to injure [CK] by stating he would “fuck him up,” or word[s] to that effect.

(*Charge Sheet*, ROT, Vol. 1.)

#### *Legal Sufficiency*

##### *Standard of Review*

This Court reviews issues of legal sufficiency de novo. United States v. Washington, 57 M.J. 394, 399 (C.A.A.F. 2002). “The test for legal sufficiency is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” United States v. Robinson, 77 M.J. 294, 297-98 (C.A.A.F. 2018) (quoting United States v. Rosario, 76 M.J. 114, 117 (C.A.A.F. 2017)). “The term reasonable doubt, however, does not mean that the evidence must be free from conflict.” United States v. Wheeler, 76 M.J. 564, 568 (A.F. Ct. Crim. App. 2017) “[I]n resolving

questions of legal sufficiency, we are bound to draw every reasonable inference from the evidence of record in favor of the prosecution.” United States v. Barner, 56 M.J. 131, 134 (C.A.A.F. 2001) (citations omitted).

### ***Law & Analysis***

Pursuant to Article 115, UCMJ, to convict Appellant of communicating a threat, the Government was required to prove beyond a reasonable doubt: (1) that Appellant communicated certain language, specifically “fuck him up, or words to that effect,” which expressed a present determination or intent to injure CK, presently or in the future; (2) that the communication was made known to that person or to a third person, namely JN; and (3) that the communication was wrongful. Manual for Courts-Martial, United States (2019 ed.) (MCM), pt. IV, ¶ 53.b.(1).

As to the third element, our superior Court has stated that the third element's requirement of wrongfulness is properly understood in relation to the *subjective* intent of the speaker. United States v. Harrington, 83 M.J. 408, 414 (C.A.A.F. 2023) (*citing* United States v. Rapert, 75 M.J. 164, 169 (C.A.A.F. 2016)). The Court continued, “In determining if the speaker's subjective intent was wrongful under the third element, the key question is not whether the speaker intended to carry out the object of the threat, but rather ‘whether the speaker intended his or her words *to be understood as sincere.*’” Id. (*citing* Rapert, 75 M.J. at 169 n. 10.)

In assessing the wrongfulness of the speaker's intent, “the surrounding circumstances may so belie or contradict the language of the declaration as to reveal it to be a mere jest or idle banter.” United States v. Gilluly, 32 C.M.R. 458, 461 (C.M.A. 1963) (citation omitted). “A statement made under such circumstances . . . is not wrongful.” MCM, pt. IV, ¶ 53.c.(2). In reviewing communicating a threat cases, context matters and words should not be considered in a vacuum.

United States v. Brown, 65 M.J. 227, 231 (C.A.A.F. 2007) (“Context gives meaning to literal statements.”).

**i. Appellant intended for his threat to be understood as sincere and was not innocent banter or made in jest.**

Appellant argues that his conviction is legally insufficient because the government failed to produce any evidence that his language was wrongful.<sup>1</sup> (App. Br. at 7.) Specifically, Appellant asserts “the government provided no evidence that [] Appellant intended any listener to believe he was sincerely going [to] ‘beat [CK’s] ass’ or ‘fuck him up.’” (Id.) Appellant also argued the government impermissibly focused on CK’s interpretation, not “Appellant’s true intention.” (Id.) Appellant argues that “Without more, this language gives no insight into Appellant’s subjective intent and is not evidence of wrongfulness.” (Id.) Appellant is incorrect.

When analyzing CK and JN’s testimony together, a rational fact finder could find that Appellant intended for his threat to be understood as sincere based on the totality of the circumstances. Here, Appellant’s, CK’s, and JN’s leadership had just left the room after giving an order, and Appellant calmly and immediately defied the order. (R. at 75, 84.) Upon being confronted by CK for defying their leadership, Appellant immediately threatened a non-commissioned officer, with whom he did not have a relationship. (Id.) Neither CK nor JN testified that Appellant’s threatening language appeared to be idle banter or made in jest, and no rational factfinder would conclude, based on the circumstances prior to Appellant’s statement—a non-commissioned officer reinforcing leadership’s standards—that Appellant, in a military environment, while in the presence of other military members, intended for his threat against a non-commissioned officer to be considered as one made in jest. Moreover, CK and Appellant were

---

<sup>1</sup> Appellant does not challenge the legal sufficiency of either the first or second elements.

not friends and rarely interacted, further lessening the chances that Appellant was merely joking with someone with whom he was on friendly terms.

Instead, the circumstances show Appellant was already displaying a flippant attitude towards his leadership by openly defying orders and, upon being rebuked for his attitude by CK, escalated his flippant attitude towards a senior ranking member by openly threatening CK. Here, there are no surrounding circumstances to belie or contradict Appellant's language. *See Gilluly, 32 C.M.R. at 461.* Instead, the overall circumstances make it clear that Appellant meant what he said when he threatened CK.

Under his factual sufficiency argument, Appellant asserts the record is devoid of witnesses providing "descriptions of Appellant's demeanor, tone, mood, or actions." (App. Br. at 9.) Because the principles concerning observations of an appellant's demeanor while communicating a threat apply equally here, the Government addresses those matters here.

To start, Appellant's overall assertion is incorrect as there is evidence of Appellant's demeanor, mood, and actions here. As noted above, the evidence showed that Appellant openly and flippantly disobeyed his leadership's orders, which provides this Court a clear indication of Appellant's demeanor and mood. Then, in front of other military members, Appellant was publicly admonished by CK. Considering these circumstances, a rationale factfinder would recognize that Appellant's demeanor and mood was openly adversarial towards his leadership and could easily infer that his demeanor and mood only grew more hostile and adversarial towards CK, who outranked Appellant, when CK attempted to correct Appellant's behavior.

Yet, even if the record was devoid of any evidence related to Appellant's demeanor or mood, Appellant's claim is still unpersuasive. While evidence concerning Appellant's demeanor could potentially enhance and add additional context to the Government's case, its absence is

neither dispositive nor a deficiency in proof. In United States v. Phillips, 42 M.J. 127, 131 (C.A.A.F. 1995), CAAF affirmed appellant’s conviction as legally sufficient where he, in a calm manner, told a trainee that threatened to expose his extra-marital affair with her friend, “keep [your] damn mouth shut and [you’ll] make it through basic training just fine.” Phillips, 42 M.J. at 129. In Phillips, CAAF noted, “although there is no evidence that appellant raised his voice or threatened [the victim] physically, *there is also no evidence that appellant used a facetious tone or otherwise indicated that he was joking.*” Phillips, 42 M.J. at 132. (emphasis added.)

Similar facts are before the court here. Neither CK nor JN testified that Appellant raised his voice, exhibited physical aggression while threatening CK, was joking, or that any of the other members present laughed or understood Appellant’s statements as a joke. To the contrary, CK admonished Appellant due to his willful failure to stop using his phone during the duty day in accordance with his leadership’s policy and, in response, an already defiant Appellant threatened CK. (R. at 76-78.) Thus, this Court should find, when viewed in the light most favorable to the Government, a rational factfinder could have found that Appellant’s statements were not in jest or innocent banter, and were thus, wrongful.

**ii. Appellant’s threatening language, as well as his overall demeanor, were sufficient to satisfy the element of wrongfulness**

Appellant asserts the government was “required to go beyond the language” when assessing Appellant’s subjective intent, and the language, while vulgar, was “not particularly menacing on [its] face.” (App. Br. at 7. ) To the extent Appellant argues, consistent with Brown, that an analysis of a threat must consider both the words used and the surrounding circumstances, Appellant is correct. However, threatening language, alone, may be sufficient to support the element of wrongfulness. See United States v. Harrington, 83 M.J. 408, 415 (C.A.A.F. 2023) (finding that “a rational trier of fact could [find] that the *menacing language* [in] the messages

indicated a *subjective* intent to threaten the recipient.”) (emphasis added.) While threatening language alone may be sufficient evidence of subjective intent, here the Government did present evidence “beyond” Appellant’s language. The evidence indicates that Appellant openly defied his leadership immediately and upon being reprimanded by CK, continued to display contempt and defiance by threatening a non-commissioned officer in the presence of other military members. Further, contrary to Appellant’s assertions, an airman uttering aloud, that he will “fuck [] up” a non-commissioned officer is menacing on its face, particularly within a military environment, where Appellant’s threats were made in the presence of other military members. As previously discussed, the totality of this evidence indicates that the Government has provided evidence beyond Appellant’s threatening language. Accordingly, drawing every reasonable inference from the evidence in the record in favor of the Government, this Court should conclude that a rational trier of fact, particularly here, where the case was tried via judge alone, could find that Appellant’s threatening statements were wrongful beyond a reasonable doubt and sustain Appellant’s conviction as legally sufficient.

### ***Factual Sufficiency***

### ***Standard of Review***

Factual sufficiency is reviewed using the following standard for every finding of guilty for an offense occurring on or after 1 January 2021<sup>2</sup>:

- (i) In an appeal of a finding of guilty under subsection (b), the Court may consider whether the finding is correct in fact upon request of the accused if the accused makes a specific showing of a deficiency in proof.

---

<sup>2</sup> National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, Section 542(b), 134 Stat. 3611-12.

(ii) After an accused has made such a showing, the Court may weigh the evidence and determine controverted questions of fact subject to—

(I) appropriate deference to the fact that the trial court saw and heard the witnesses and other evidence; and

(II) appropriate deference to findings of fact entered into the record by the military judge.

(iii) If, as a result of the review conducted under clause (ii), the Court is clearly convinced that the finding of guilty was against the weight of the evidence, the Court may dismiss, set aside, or modify the finding, or affirm a lesser finding.

10 U.S.C. § 866(d)(1)(B).

### *Law & Analysis*

An Appellant must demonstrate (1) an assignment of error and (2) a specific deficiency of proof before this Court may conduct a factual sufficiency review. 10 U.S.C. § 866(d)(1)(B); United States v. Harvey, 85 M.J. 127, 130 (C.A.A.F. 2024). “This power is subject, in part, to Article 66(d)(1)(B)(ii)(I), UCMJ, which requires ‘appropriate deference’ to the fact that the trial court saw and heard the witnesses and other evidence.” Id. When weighing evidence and determining controverted questions of fact, “appropriate deference” will “depend on the nature of the evidence at issue.” Id.<sup>3</sup>

Under the new factual sufficiency standard, Appellant has failed to make a specific showing of a deficiency of proof. Yet, even if he had, after making the appropriate deference to

---

<sup>3</sup> “For example, a CCA might determine that the appropriate deference required for a court-martial’s assessment of the testimony of a fact witness, whose credibility was at issue, is high because the CCA judges could not see the witness testify. In contrast, when the CCA can assess documents, videos, and other objective evidence just as well as the court-martial, the CCA might determine that the appropriate deference required is low.” Harvey, 85 M.J. at 131.

the trial court hearing the witnesses at trial, the Court should not be clearly convinced that the finding of guilty was against the weight of the evidence.

**i. Appellants “conditional” threatening statement did not negate his present intent to injure CK.**

Appellant also argues that his conviction is factually insufficient because the language testified to by JN was “conditional and [did] not reflect a present determination or intent to injure [CK]” and “the government failed to establish beyond a reasonable doubt that the charged language was [] said to [JN].” (App. Br. at 8.) Appellant provides no case law or precedent to support his claim. In doing so, Appellant ignores that a conditional threatening statement does not preclude the Court from finding that Appellant’s threat represented a “present determination or intent to injure [CK].” See Phillips, 42 M.J. at 131 (a threat is not negated when the condition imposed on the threat is reasonably possible of being fulfilled); See also United States v. Myers, No. ACM S32749, 2024 CCA LEXIS 347, at \*10 (A.F. Ct. Crim. App. Aug. 22, 2024) (unpub. op.) (finding “[a] threat conditioned upon a victim’s actions does not preclude a finding that the language used manifested a then-existing determination to injure.”). Instead, it is only “[i]f the threatened injury is stated to be contingent on the occurrence of some event that *obviously could not take place* [that] an accused is not criminally liable.” United States v. Alford, 34 M.J. 150, 152 (C.M.A. 1992) (emphasis added).

Here, there is no ambiguity concerning whether the condition imposed by Appellant—another verbal order from CK—could be fulfilled. As a non-commissioned officer, it was highly likely that Appellant would receive a tasking or other directive from CK, at some point. Additionally, Appellant was within a few feet from CK and there was nothing preventing Appellant from immediately assaulting CK upon receiving another verbal order. CK testified that he understood Appellant’s statement as a threat and believed Appellant could have acted upon his

threat. (R. at 79- 80.) Further, considering Appellant’s already defiant attitude towards his superiors, the circumstances indicate Appellant’s threat to “beat” CK’s “ass” was an expressed present determination to injure CK, a non-commissioned officer.

Additionally, “unlawful conditions imposed by an Appellant as part of their threatening language do not serve as a basis for undermining threat.” Myers, at \*11 (*citing United States v. Alford*, 34 M.J. 150, 151 (C.M.A. 1992)). In Alford, an appellant threatened someone by saying “If you say anything, or if this goes anywhere beyond the housing unit, I’ll make sure that you spend time in the hospital.” Alford, 34 M.J. at 151. Our superior Court held the appellant “had ‘no right to impose’ any condition on [the victim’s] reporting his misconduct; and imposition of a wrongful condition ‘does not negate a present determination to injure.’” Id. (*citations omitted*). As a result, Appellant’s conditional language argument is unpersuasive.

Appellant also argues the military judge found CK credible about *what* statement was made, but not to *whom* the statement was directed to, while conversely finding JN credible about to *whom* the statement was directed, but not about *which* statement was made. (App. Br. at 8.) Appellant claims this results in an “illogical weighing of the evidence.” (*Id.*) Appellant is wrong.

There is no ambiguity or “illogical weighing” here. Appellant’s first assertion that the military judge found CK not credible regarding “to whom” the statement was said is incorrect because CK never testified that Appellant’s communication was made directly to him or to anyone else. Instead, CK testified that when Appellant said, “something to the effect of that he was going to ‘fuck me up,’” he was facing Appellant’s general direction when the threatening statement was made. (R. at 76.) Thus, the military judge’s finding that the statement was indeed made to JN does not, in any way, impact the credibility of CK’s testimony or factual sufficiency. *See MCM*,

pt. IV, ¶ 53.b.(1)(b) (requiring “that the communication was made known to that person or to a *third person.*”) (emphasis added)

Furthermore, Appellant seems to contend that the military judge could only believe, and thus only find credible, either CK or JN with regards to what Appellant actually said. From his argument, Appellant believes that if the military judge found CK credible in his testimony that he recalled Appellant saying, “fuck him up,” that this equates to the military judge finding JN’s testimony that he recalled Appellant saying “I’m going to beat his ass” not credible.

Appellant’s argument is misplaced, ignores the purpose of “words to that effect” included in the specification, and requires precision where the law gives flexibility. This case is analogous to United States v. Jones, No. ACM 39766, 2021 CCA LEXIS 73, at \*34 (A.F. Ct. Crim. App. Feb. 17, 2021) (unpub. op.), where appellant argued his conviction for threatening the alleged victim and her children was legally and factually sufficient because the language the victim testified to deviated from the charged language. In Jones, this Court concluded, while the “[victim’s] testimony did not mirror the charged threat,” the “caveat language of ‘words to that effect,’ [] necessarily permits a degree of variability between the language charged and the language proved by the evidence.” Jones, 2021 CCA LEXIS 73, at \*35. The specification for which Appellant was convicted similarly includes the language “words to that effect.” While JN or CK testified to different language, the military judge could still have found both testimonies credible while also recognizing that the language identified by both is objectively threatening. Simply put, the evidence was weighed logically and does not “undermine confidence” in the military judge’s just verdict. The military judge heard and credited CK and JN’s testimony concerning the circumstances surrounding the threatening statement and this Court should, consistent with Harvey, defer to the military judge’s observations concerning the testimony elicited at trial.

**ii. The totality of circumstances, including Appellant’s mood, demeanor, and actions prior to his threatening statement, provide sufficient evidence to sustain a finding that Appellant intended for his statement to be perceived as a sincere threat.**

Next, Appellant argues that his conviction was factually insufficient, because the Government presented no evidence concerning Appellant’s subjective intent. (App. Br. at 8-9.) Similar to the legal sufficiency analysis concerning whether Appellant’s statement was wrongful, Appellant’s objectively threatening language is sufficient, alone, to survive a factual sufficiency analysis. However, if this Court determines the threatening statements, alone, are insufficient to satisfy the wrongfulness element, there is sufficient evidence in the record from the testimony of CK and JN that Appellant intended for his words to CK to be perceived as a threat and Appellant knew that CK would perceive his threat as sincere. As consistently established by courts, “[t]hreatening language is wrongful if it is meant to be understood as sincere in the moment.” Harrington, 83 M.J. at 414. The evidence in the record indicates Appellant displayed a flippant attitude towards his leadership by openly defying orders prior to being rebuked for his attitude by CK, and his conduct only escalated by openly threatening CK, an outranking member. The surrounding circumstances make it clear that Appellant meant what he said when he threatened CK. Considering these circumstances, this Court should recognize that Appellant’s demeanor and mood was openly adversarial towards his leadership and should infer that his demeanor and mood only grew more hostile and adversarial towards CK, culminating in his threat to CK in the presence of other military members. Appellant was unhappy about being corrected for his behavior, wanted to stop CK from doing it again, and thus intended his threat to be perceived as sincere.

Appellant attempts to find fault within the military judge’s just verdict by focusing on the trial counsel’s closing argument. However, “closing arguments are not evidence.” United States v. Schap, 49 M.J. 317, 327 (C.A.A.F. 1998). Further, Appellant’s case was tried by a military judge

alone, who is presumed capable of filtering evidence and applying the law correctly. United States v. Erickson, 65 M.J. 221, 225 (C.A.A.F. 2007). Here, the military judge weighed the evidence and concluded the government provided sufficient evidence that Appellant intended for his threats to be understood as sincere and this Court should not disturb the military judge's findings. Accordingly, this Court should not be clearly convinced that the findings were against the weight of the evidence, Appellant's conviction was factually sufficient, and he is therefore, not entitled to relief.

### **Conclusion**

In summation, Appellant failed to make a specific showing of a deficiency of proof as to his conviction. If this Court finds otherwise, the evidence shows Appellant communicated a subjectively sincere threat to JN to injure CK. The evidence further indicates both JN and CK recognized Appellant's communication as a threat and that a reasonable person in either JN's or CK's place would have also objectively recognized Appellant's communication as a threat. *See Harrington*, 83 M.J. at 414. When providing the military judge the required and appropriate deference for having observed all the witnesses and evidence at trial, including hearing both CK and JN testify, this Court should not be clearly convinced that Appellant's conviction was against the weight of the evidence. Accordingly, Appellant's factual sufficiency claim must fail.

The same holds true for his legal sufficiency claim. Here, the record shows the specification is legally sufficient and that a reasonable factfinder could have found all essential elements satisfied beyond a reasonable doubt. In drawing every reasonable inference from the evidence in the record of trial in favor of the prosecution, the Court should deny Appellant's claim.

**CONCLUSION**

For these reasons, the United States respectfully requests that this Honorable Court deny Appellant's claims and affirm the findings and sentence in this case.



DONNELL D. WRIGHT, Capt, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4813



MARY ELLEN PAYNE  
Associate Chief  
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 the Air Force Appellate Defense Division on 23 October 2025.



DONNELL D. WRIGHT, Capt, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4813