

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (FIRST)</b>
	)	
v.	)	Before Panel No. 1
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force	)	22 September 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his first enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **30 November 2023**. The record of trial was docketed with this Court on 2 August 2023. From the date of docketing to the present date, 51 days have elapsed. On the date requested, 120 days will have elapsed.

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

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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 22 September 2023.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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
	)	
Master Sergeant (E-7)	)	ACM 40499
NATHANIEL A. CASILLAS, 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.

PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

**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 26 September 2023.

PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (SECOND)</b>
	)	
v.	)	Before Panel No. 1
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force	)	21 November 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his second enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **30 December 2023**. The record of trial was docketed with this Court on 2 August 2023. From the date of docketing to the present date, 111 days have elapsed. On the date requested, 150 days will have elapsed.

On 27 February – 5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. Record of Trial (ROT) Vol. 1, Entry of Judgment, dated 20 June 2023 (EOJ). Contrary to his pleas, a panel of officer members found Appellant guilty of one charge under the general article which consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one specification of failure to obey a lawful general order in violation of Article 92, UCMJ, 10 U.S.C. § 892; one charge which consisted of one specification of indecent exposure, one specification of indecent recording, and one specification of indecent broadcasting, all in violation of Article 120c, UCMJ,

10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795; EOJ. The members sentenced Appellant to a reprimand, reduction to the grade of E-4, a fine of \$2,500, forfeiture of all pay and allowances, and confinement for two years. R. at 1957; EOJ. The convening authority took no action on the findings but deferred the reduction in grade until entry of judgment, deferred the adjudged forfeitures from 14 days from the date the sentence was adjudged until entry of judgment, suspended the first six months of adjudged forfeitures for six months, disapproved the adjudged fine, and waived automatic forfeitures for six months, or until release from confinement or expiration of term of service, whichever is sooner. ROT Vol. 1, Convening Authority Decision on Action – *United States v. MSgt Nathaniel A. Casillas*, dated 2 June 2023.

The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Appellant is currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete his 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.

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

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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 21 November 2023.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604



**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
	)	
Master Sergeant (E-7)	)	ACM 40499
NATHANIEL A. CASILLAS, 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

**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 27 November 2023.

MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (THIRD)</b>
	)	
v.	)	Before Panel No. 1
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force	)	22 December 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his third enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **29 January 2024**. The record of trial was docketed with this Court on 2 August 2023. From the date of docketing to the present date, 142 days have elapsed. On the date requested, 180 days will have elapsed.

On 27 February – 5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. Record of Trial (ROT) Vol. 1, Entry of Judgment, dated 20 June 2023 (EOJ). Contrary to his pleas, a panel of officer members found Appellant guilty of one charge under the general article which consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one specification of failure to obey a lawful general order in violation of Article 92, UCMJ, 10 U.S.C. § 892; one charge which consisted of one specification of indecent exposure, one specification of indecent recording, and one specification of indecent broadcasting, all in violation of Article 120c, UCMJ,

10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795; EOJ. The members sentenced Appellant to a reprimand, reduction to the grade of E-4, a fine of \$2,500, forfeiture of all pay and allowances, and confinement for two years. R. at 1957; EOJ. The convening authority took no action on the findings but deferred the reduction in grade until entry of judgment, deferred the adjudged forfeitures from 14 days from the date the sentence was adjudged until entry of judgment, suspended the first six months of adjudged forfeitures for six months, disapproved the adjudged fine, and waived automatic forfeitures for six months, or until release from confinement or expiration of term of service, whichever is sooner. ROT Vol. 1, Convening Authority Decision on Action – *United States v. MSgt Nathaniel A. Casillas*, dated 2 June 2023.

The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Appellant is currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete his 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.

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

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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 22 December 2023.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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
	)	
Master Sergeant (E-7)	)	ACM 40499
NATHANIEL A. CASILLAS, 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.

PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

**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 27 December 2023.

PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force



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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (FOURTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force	)	22 January 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)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a fourth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **28 February 2024**. The record of trial was docketed with this Court on 2 August 2023. From the date of docketing to the present date, 173 days have elapsed. On the date requested, 210 days will have elapsed.

On 27 February – 5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. Record of Trial (ROT) Vol. 1, Entry of Judgment, dated 20 June 2023 (EOJ). Contrary to his pleas, a panel of officer members found Appellant guilty of one charge under the general article which consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one specification of failure to obey a lawful general order in violation of Article 92, UCMJ, 10 U.S.C. § 892; one charge which consisted of one specification of indecent exposure, one specification of indecent recording, and one specification of indecent broadcasting, all in violation of Article 120c, UCMJ,

10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795; EOJ. The members sentenced Appellant to a reprimand, reduction to the grade of E-4, a fine of \$2,500, forfeiture of all pay and allowances, and confinement for two years. R. at 1957; EOJ. The convening authority took no action on the findings but deferred the reduction in grade until entry of judgment, deferred the adjudged forfeitures from 14 days from the date the sentence was adjudged until entry of judgment, suspended the first six months of adjudged forfeitures for six months, disapproved the adjudged fine, and waived automatic forfeitures for six months, or until release from confinement or expiration of term of service, whichever is sooner. ROT Vol. 1, Convening Authority Decision on Action – *United States v. MSgt Nathaniel A. Casillas*, dated 2 June 2023.

The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Appellant is currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing 28 clients; 20 clients are pending initial AOE's before this Court.<sup>1</sup> Seven matters have priority over this case:

- 1) *United States v. Myers*, ACM S32749 – The record of trial is four volumes consisting of seven prosecution exhibits, nine defense exhibits, and 26 appellate exhibits; the transcript is 656 pages. Undersigned counsel has reviewed the record of trial and begun drafting the AOE in this case.

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<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed the AOE in *U.S. v. Taylor*, ACM 40371; reviewed the four-volume record and began drafting the AOE in *U.S. v. Myers*, ACM S32749; and participated in practice oral arguments for two additional cases.

- 2) *United States v. Stafford*, ACM 40131 – The record of trial is 21 volumes consisting of 17 prosecution exhibits, 16 defense exhibits, five court exhibits, and 186 appellate exhibits; the transcript is 2282 pages. Undersigned counsel is preparing to petition the Court of Appeals for the Armed Forces (CAAF) for a grant of review in this case.
- 3) *United States v. Patterson*, ACM 40426 – The record of trial is 8 volumes consisting of 12 prosecution exhibits, eight defense exhibits, two court exhibits, and 75 appellate exhibits; the transcript is 987 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 4) *United States v. Smith*, ACM 40437 – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and 29 appellate exhibits; the transcript is 338 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 5) *United States v. Zhong*, ACM 40441 – The record of trial is four volumes consisting of 14 prosecution exhibits, 11 defense exhibits, 12 appellate exhibits, and one court exhibit; the transcript is 482 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 6) *United States v. Kershaw*, ACM 40455 – The record of trial is eight volumes consisting of 11 prosecution exhibits, nine defense exhibits, one court exhibit, and 71 appellate exhibits; the transcript is 703 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 7) *United States v. Cadavona*, ACM 40476 – The record of trial is four volumes consisting of 11 prosecution exhibits, two defense exhibits, and 24 appellate exhibits; the

transcript is 329 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his 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.

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

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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 22 January 2024.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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
	)	
Master Sergeant (E-7)	)	ACM 40499
NATHANIEL A. CASILLAS, 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.

PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

**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 24 January 2024.

PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (FIFTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force	)	15 February 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)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a fifth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **29 March 2024**. The record of trial was docketed with this Court on 2 August 2023. From the date of docketing to the present date, 197 days have elapsed. On the date requested, 240 days will have elapsed.

On 27 February – 5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. Record of Trial (ROT) Vol. 1, Entry of Judgment, dated 20 June 2023 (EOJ). Contrary to his pleas, a panel of officer members found Appellant guilty of one charge under the general article which consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one specification of failure to obey a lawful general order in violation of Article 92, UCMJ, 10 U.S.C. § 892; one charge which consisted of one specification of indecent exposure, one specification of indecent recording, and one specification of indecent broadcasting, all in violation of Article 120c, UCMJ,



10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795; EOJ. The members sentenced Appellant to a reprimand, reduction to the grade of E-4, a fine of \$2,500, forfeiture of all pay and allowances, and confinement for two years. R. at 1957; EOJ. The convening authority took no action on the findings but deferred the reduction in grade until entry of judgment, deferred the adjudged forfeitures from 14 days from the date the sentence was adjudged until entry of judgment, suspended the first six months of adjudged forfeitures for six months, disapproved the adjudged fine, and waived automatic forfeitures for six months, or until release from confinement or expiration of term of service, whichever is sooner. ROT Vol. 1, Convening Authority Decision on Action – *United States v. MSgt Nathaniel A. Casillas*, dated 2 June 2023.

The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Appellant is currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing 30 clients; 19 clients are pending initial AOE's before this Court.<sup>1</sup> Five matters have priority over this case:

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<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed the AOE in *U.S. v. Myers*, ACM S32749; petitioned the Court of Appeals for the Armed Forces (CAAF) for a grant of review and prepared and filed the supplement to the petition in *U.S. v. Stafford*, ACM 40131, USCA Dkt. No. 24-0080/AF; prepared and filed a reply to the Government's answer in *U.S. v. Taylor*, ACM 40371; prepared and filed a nine-page motion and a nine-page response to a government motion in *U.S. v. Bartolome*, ACM 22045; reviewed approximately half of the eight-volume record of trial in *U.S. v. Patterson*, ACM 40426; and participated in practice oral arguments for two additional cases. Additionally, counsel was heavily involved in the preparations for the Judge Advocate General's Corps 75th Anniversary Event.

- 1) *United States v. Patterson*, ACM 40426 – The record of trial is 8 volumes consisting of 12 prosecution exhibits, eight defense exhibits, two court exhibits, and 75 appellate exhibits; the transcript is 987 pages. Undersigned counsel has reviewed approximately half of the record of trial in this case.
- 2) *United States v. Smith*, ACM 40437 – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and 29 appellate exhibits; the transcript is 338 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 3) *United States v. Zhong*, ACM 40441 – The record of trial is four volumes consisting of 14 prosecution exhibits, 11 defense exhibits, 12 appellate exhibits, and one court exhibit; the transcript is 482 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 4) *United States v. Kershaw*, ACM 40455 – The record of trial is eight volumes consisting of 11 prosecution exhibits, nine defense exhibits, one court exhibit, and 71 appellate exhibits; the transcript is 703 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 5) *United States v. Cadavona*, ACM 40476 – The record of trial is four volumes consisting of 11 prosecution exhibits, two defense exhibits, and 24 appellate exhibits; the transcript is 329 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his 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

informed of his right to timely appeal, 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 fifth enlargement of time for good cause shown.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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 February 2024.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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
	)	
Master Sergeant (E-7)	)	ACM 40499
NATHANIEL A. CASILLAS, 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.

PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

**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 2024.

PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (SIXTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force	)	19 March 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)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a sixth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **28 April 2024**. The record of trial was docketed with this Court on 2 August 2023. From the date of docketing to the present date, 230 days have elapsed. On the date requested, 270 days will have elapsed.

On 27 February – 5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. Record of Trial (ROT) Vol. 1, Entry of Judgment, dated 20 June 2023 (EOJ). Contrary to his pleas, a panel of officer members found Appellant guilty of one charge under the general article which consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one specification of failure to obey a lawful general order in violation of Article 92, UCMJ, 10 U.S.C. § 892; one charge which consisted of one specification of indecent exposure, one specification of indecent recording, and one specification of indecent broadcasting, all in violation of Article 120c, UCMJ,

10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795; EOJ. The members sentenced Appellant to a reprimand, reduction to the grade of E-4, a fine of \$2,500, forfeiture of all pay and allowances, and confinement for two years. R. at 1957; EOJ. The convening authority took no action on the findings but deferred the reduction in grade until entry of judgment, deferred the adjudged forfeitures from 14 days from the date the sentence was adjudged until entry of judgment, suspended the first six months of adjudged forfeitures for six months, disapproved the adjudged fine, and waived automatic forfeitures for six months, or until release from confinement or expiration of term of service, whichever is sooner. ROT Vol. 1, Convening Authority Decision on Action – *United States v. MSgt Nathaniel A. Casillas*, dated 2 June 2023.

The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Appellant is currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing 29 clients; 18 clients are pending initial AOE's before this Court.<sup>1</sup> Five matters have priority over this case:

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<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel began his review of the four volume record of trial in *U.S. v. Zhong*, ACM 40441; completed his review of the eight-volume record of trial, including sealed materials, and began drafting the AOE in *U.S. v. Patterson*, ACM 40426; prepared and filed a reply to the Government's answer in *U.S. v. Myers*, ACM S32749; prepared for oral argument, including conducting two practice oral arguments, in *U.S. v. Taylor*, ACM 40371; prepared and filed a citation to supplemental authority with the Court of Appeals for the Armed Forces in *U.S. v. Driskill*, ACM 39889 (f rev), USCA Dkt. No. 23-0066/AF; and participated in practice oral argument and preparation sessions for two additional cases.



- 1) *United States v. Taylor*, ACM 40371 – The record of trial is six volumes consisting of six prosecution exhibits, one court exhibit, 12 defense exhibits, and 36 appellate exhibits; the transcript is 396 pages. Undersigned counsel is preparing to present oral argument to this Court as lead counsel in this case on 21 March 2024.
- 2) *United States v. Patterson*, ACM 40426 – The record of trial is 8 volumes consisting of 12 prosecution exhibits, eight defense exhibits, two court exhibits, and 75 appellate exhibits; the transcript is 987 pages. Undersigned counsel has reviewed the record of trial and begun drafting the AOE in this case.
- 3) *United States v. Zhong*, ACM 40441 – The record of trial is four volumes consisting of 14 prosecution exhibits, 11 defense exhibits, 12 appellate exhibits, and one court exhibit; the transcript is 482 pages. Undersigned counsel has begun reviewing the record of trial in this case.
- 4) *United States v. Kershaw*, ACM 40455 – The record of trial is eight volumes consisting of 11 prosecution exhibits, nine defense exhibits, one court exhibit, and 71 appellate exhibits; the transcript is 703 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 5) *United States v. Cadavona*, ACM 40476 – The record of trial is four volumes consisting of 11 prosecution exhibits, two defense exhibits, and 24 appellate exhibits; the transcript is 329 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his 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

informed of his right to timely appeal, 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 sixth enlargement of time for good cause shown.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 19 March 2024.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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
	)	
Master Sergeant (E-7)	)	ACM 40499
NATHANIEL A. CASILLAS, 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

**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 March 2024.

MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force

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

<b>UNITED STATES</b>	)	<b>No. ACM 40499</b>
<i>Appellee</i>	)	
	)	
<b>v.</b>	)	
	)	<b>NOTICE OF</b>
<b>Nathaniel A. CASILLAS</b>	)	<b>PANEL CHANGE</b>
<b>Master Sergeant (E-7)</b>	)	
<b>U.S. Air Force</b>	)	
<i>Appellant</i>	)	

It is by the court on this 3d day of April, 2024,

**ORDERED:**

The record of trial in the above styled matter is withdrawn from Panel 1 and referred to a Special Panel for appellate review.

The Special Panel in this matter shall be constituted as follows:

ANNEXSTAD, WILLIAM J., Colonel, Senior Appellate Military Judge  
MASON, BRIAN C., Lieutenant Colonel, Appellate Military Judge  
KEARLEY, CYNTHIA T., Colonel, Appellate Military Judge

This panel letter supersedes all previous panel assignments.



FOR THE COURT

TANICA S. BAGMON  
Appellate Court Paralegal

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (SEVENTH)</b>
	)	
v.	)	Before Special Panel
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force	)	18 April 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)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a seventh enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **28 May 2024**. The record of trial was docketed with this Court on 2 August 2023. From the date of docketing to the present date, 260 days have elapsed. On the date requested, 300 days will have elapsed.

On 27 February – 5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. Record of Trial (ROT) Vol. 1, Entry of Judgment, dated 20 June 2023 (EOJ). Contrary to his pleas, a panel of officer members found Appellant guilty of one charge under the general article which consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one specification of failure to obey a lawful general order in violation of Article 92, UCMJ, 10 U.S.C. § 892; one charge which consisted of one specification of indecent exposure, one specification of indecent recording, and one specification of indecent broadcasting, all in violation of Article 120c, UCMJ,

10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795; EOJ. The members sentenced Appellant to a reprimand, reduction to the grade of E-4, a fine of \$2,500, forfeiture of all pay and allowances, and confinement for two years. R. at 1957; EOJ. The convening authority took no action on the findings but deferred the reduction in grade until entry of judgment, deferred the adjudged forfeitures from 14 days from the date the sentence was adjudged until entry of judgment, suspended the first six months of adjudged forfeitures for six months, disapproved the adjudged fine, and waived automatic forfeitures for six months, or until release from confinement or expiration of term of service, whichever is sooner. ROT Vol. 1, Convening Authority Decision on Action – *United States v. MSgt Nathaniel A. Casillas*, dated 2 June 2023.

The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Appellant is currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing 26 clients; 17 clients are pending initial AOE's before this Court.<sup>1</sup> Five matters have priority over this case:

- 1) *United States v. Patterson*, ACM 40426 – The record of trial is 8 volumes consisting of 12 prosecution exhibits, eight defense exhibits, two court exhibits, and 75 appellate

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<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately eighty percent of the four-volume record of trial, including sealed materials, in *U.S. v. Zhong*, ACM 40441; completed an approximately 30-page draft AOE in *U.S. v. Patterson*, ACM 40426; presented oral argument to this Court as lead counsel and prepared and filed a brief on a specified issue in *U.S. v. Taylor*, ACM 40371; prepared and filed a motion to dismiss in *In re R.R.*, Misc. Dkt. No. 2024-02; and participated in practice oral argument sessions for two additional cases.



exhibits; the transcript is 987 pages. Undersigned counsel has drafted the AOE in this case.

- 2) *United States v. Zhong*, ACM 40441 – The record of trial is four volumes consisting of 14 prosecution exhibits, 11 defense exhibits, 12 appellate exhibits, and one court exhibit; the transcript is 482 pages. Undersigned counsel has reviewed approximately ninety percent of the record of trial in this case.
- 3) *United States v. Kershaw*, ACM 40455 – The record of trial is eight volumes consisting of 11 prosecution exhibits, nine defense exhibits, one court exhibit, and 71 appellate exhibits; the transcript is 703 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 4) *United States v. Cadavona*, ACM 40476 – The record of trial is four volumes consisting of 11 prosecution exhibits, two defense exhibits, and 24 appellate exhibits; the transcript is 329 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 5) *United States v. Driskill*, ACM 39889 (rem) – The record of trial is 14 volumes consisting of 17 prosecution exhibits, four defense exhibits, and 169 appellate exhibits; the transcript is 2062 pages. Undersigned counsel will need to conduct additional review of the record of trial to prepare a brief on remand in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his 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 informed of his right to timely appeal, 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 seventh enlargement of time for good cause shown.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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 April 2024.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

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

UNITED STATES,	)	UNITED STATES'
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Master Sergeant (E-7)	)	ACM 40499
NATHANIEL A. CASILLAS, 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 opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 300 days in length. Appellant's nearly a 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 begun review of the record of trial at this late stage of the appellate process.

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

J. PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

**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 April 2024.

J. PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (EIGHTH)</b>
	)	
v.	)	Before Special Panel
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force,	)	17 May 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)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an eighth 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 June 2024**. The record of trial was docketed with this Court on 2 August 2023. From the date of docketing to the present date, 289 days have elapsed. On the date requested, 330 days will have elapsed.

On 27 February – 5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. Record of Trial (ROT) Vol. 1, Entry of Judgment, dated 20 June 2023 (EOJ). Contrary to his pleas, a panel of officer members found Appellant guilty of one charge under the general article which consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one specification of failure to obey a lawful general order in violation of Article 92, UCMJ, 10 U.S.C. § 892; one charge which consisted of one specification of indecent exposure, one specification of indecent recording, and one specification of indecent broadcasting, all in violation of Article 120c, UCMJ,

10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795; EOJ. The members sentenced Appellant to a reprimand, reduction to the grade of E-4, a fine of \$2,500, forfeiture of all pay and allowances, and confinement for two years. R. at 1957; EOJ. The convening authority took no action on the findings but deferred the reduction in grade until entry of judgment, deferred the adjudged forfeitures from 14 days from the date the sentence was adjudged until entry of judgment, suspended the first six months of adjudged forfeitures for six months, disapproved the adjudged fine, and waived automatic forfeitures for six months, or until release from confinement or expiration of term of service, whichever is sooner. ROT Vol. 1, Convening Authority Decision on Action – *United States v. MSgt Nathaniel A. Casillas*, dated 2 June 2023.

The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Appellant is currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing 28 clients; 18 clients are pending initial AOE's before this Court.<sup>1</sup> Four matters have priority over this case:

- 1) *United States v. Ollison*, ACM S32745, USCA Dkt. No. 24-0150/AF – The record of trial is two volumes consisting of three prosecution exhibits, one defense exhibit, and

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<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel completed his review of the four-volume record of trial and prepared and filed a 25-page AOE in *U.S. v. Zhong*, ACM 40441; prepared and filed a 30-page AOE in *U.S. v. Patterson*, ACM 40426; prepared and filed a petition for grant of review with the Court of Appeals for the Armed Forces (CAAF) and began drafting the supplement to the petition in *U.S. v. Ollison*, ACM S32745, USCA Dkt. No. 24-0150/AF; reviewed approximately thirty percent of the eight-volume record of trial in *U.S. v. Kershaw*, ACM 40455; and participated in a practice oral argument session for one additional case.



- nine appellate exhibits; the transcript is 142 pages. Undersigned counsel has petitioned the CAAF for a grant of review in this case and is drafting the supplement to the petition.
- 2) *United States v. Kershaw*, ACM 40455 – The record of trial is eight volumes consisting of 11 prosecution exhibits, nine defense exhibits, one court exhibit, and 71 appellate exhibits; the transcript is 703 pages. Undersigned counsel has reviewed approximately thirty percent of the record of trial in this case.
  - 3) *United States v. Cadavona*, ACM 40476 – The record of trial is four volumes consisting of 11 prosecution exhibits, two defense exhibits, and 24 appellate exhibits; the transcript is 329 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
  - 4) *United States v. Driskill*, ACM 39889 (rem) – The record of trial is 14 volumes consisting of 17 prosecution exhibits, four defense exhibits, and 169 appellate exhibits; the transcript is 2062 pages. Undersigned counsel will need to conduct additional review of the record of trial to prepare a brief on remand in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his 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 informed of his right to timely appeal, 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 eighth enlargement of time for good cause shown.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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 May 2024.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

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

UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.	)	
	)	
Master Sergeant (E-7)	)	ACM 40499
NATHANIEL A. CASILLAS, USAF,	)	
<i>Appellant.</i>	)	Special Panel
	)	

**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.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 330 days in length. Appellant's nearly year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed 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 of trial at this late stage of the appellate process.

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

BRITTANY M. SPEIRS, Maj, USAFR  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

**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 May 2024.

BRITTANY M. SPEIRS, Maj, USAFR  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

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

UNITED STATES	)	No. ACM 40499
Appellee	)	
	)	
v.	)	
	)	<b>ORDER</b>
Nathaniel A. CASILLAS	)	
Master Sergeant (E-7)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Special Panel</b>

On 17 May 2024, counsel for Appellant submitted a Motion for Enlargement of Time (Eighth) requesting an additional 30 days to submit Appellant's assignments of error. The Government opposes the motion.

The court has considered Appellant's motion, the Government's opposition, case law, and this court's Rules of Practice and Procedure. Accordingly, it is by the court on this 28th day of May, 2024,

**ORDERED:**

Appellant's Motion for Enlargement of Time (Eighth) is **GRANTED**. Appellant shall file any assignments of error not later than **27 June 2024**.

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



FOR THE COURT

OLGA STANFORD, Capt, USAF  
Commissioner

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (NINTH)</b>
	)	
v.	)	Before Special Panel
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force,	)	17 June 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)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a ninth 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 July 2024**. The record of trial was docketed with this Court on 2 August 2023. From the date of docketing to the present date, 320 days have elapsed. On the date requested, 360 days will have elapsed.

On 27 February – 5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. Record of Trial (ROT) Vol. 1, Entry of Judgment, dated 20 June 2023 (EOJ). Contrary to his pleas, a panel of officer members found Appellant guilty of one charge under the general article which consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one specification of failure to obey a lawful general order in violation of Article 92, UCMJ, 10 U.S.C. § 892; one charge which consisted of one specification of indecent exposure, one specification of indecent recording, and one specification of indecent broadcasting, all in violation of Article 120c, UCMJ,

10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795; EOJ. The members sentenced Appellant to a reprimand, reduction to the grade of E-4, a fine of \$2,500, forfeiture of all pay and allowances, and confinement for two years. R. at 1957; EOJ. The convening authority took no action on the findings but deferred the reduction in grade until entry of judgment, deferred the adjudged forfeitures from 14 days from the date the sentence was adjudged until entry of judgment, suspended the first six months of adjudged forfeitures for six months, disapproved the adjudged fine, and waived automatic forfeitures for six months, or until release from confinement or expiration of term of service, whichever is sooner. ROT Vol. 1, Convening Authority Decision on Action – *United States v. MSgt Nathaniel A. Casillas*, dated 2 June 2023.

The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Appellant is currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing 27 clients; 16 clients are pending initial AOE's before this Court.<sup>1</sup> Four matters have priority over this case:

---

<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a 13-page reply to the Government's answer in *U.S. v. Patterson*, ACM 40426; prepared and filed the supplement to the petition for grant of review with the Court of Appeals for the Armed Forces (CAAF) in *U.S. v. Ollison*, ACM S32745, USCA Dkt. No. 24-0150/AF; reviewed approximately sixty five percent of the eight-volume record of trial, including sealed materials, and began drafting the AOE in *U.S. v. Kershaw*, ACM 40455; was detailed to and prepared for both oral argument and a supplemental filing based on new post-trial disclosures in *U.S. v. Doroteo*, ACM 40363; reviewed 382 pages of a verbatim transcript requiring certification; and participated in practice oral argument sessions for one additional case.



- 1) *United States v. Doroteo*, ACM 40363 – The record of trial is 14 volumes consisting of 19 prosecution exhibits, three defense exhibits, 151 appellate exhibits, and two court exhibits; the transcript is 2,149 pages. Undersigned counsel was recently detailed to this case and is preparing to support oral argument before this Court on 18 June 2024 as well as assisting with drafting a supplemental filing based on new post-trial disclosures.
- 2) *United States v. Kershaw*, ACM 40455 – The record of trial is eight volumes consisting of 11 prosecution exhibits, nine defense exhibits, one court exhibit, and 71 appellate exhibits; the transcript is 703 pages. Undersigned counsel has reviewed approximately ninety five percent of the record of trial and begun drafting the AOE in this case.
- 3) *United States v. Cadavona*, ACM 40476 – The record of trial is four volumes consisting of 11 prosecution exhibits, two defense exhibits, and 24 appellate exhibits; the transcript is 329 pages. Undersigned counsel has begun reviewing the record of trial in this case.
- 4) *United States v. Driskill*, ACM 39889 (rem) – The record of trial is 14 volumes consisting of 17 prosecution exhibits, four defense exhibits, and 169 appellate exhibits; the transcript is 2062 pages. Undersigned counsel will need to conduct additional review of the record of trial to prepare a brief on remand in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his 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 informed of his right to timely appeal, 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 ninth enlargement of time for good cause shown.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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 June 2024.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

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

UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.	)	
	)	
Master Sergeant (E-7)	)	ACM 40499
NATHANIEL A. CASILLAS, USAF,	)	
<i>Appellant.</i>	)	Special Panel
	)	

**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.

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

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

**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 2024.

MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (TENTH)</b>
	)	
v.	)	Before Special Panel
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force,	)	17 July 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)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a tenth 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 August 2024**. The record of trial was docketed with this Court on 2 August 2023. From the date of docketing to the present date, 350 days have elapsed. On the date requested, 390 days will have elapsed.

On 27 February – 5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. Record of Trial (ROT) Vol. 1, Entry of Judgment, dated 20 June 2023 (EOJ). Contrary to his pleas, a panel of officer members found Appellant guilty of one charge under the general article which consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one specification of failure to obey a lawful general order in violation of Article 92, UCMJ, 10 U.S.C. § 892; one charge which consisted of one specification of indecent exposure, one specification of indecent recording, and one specification of indecent broadcasting, all in violation of Article 120c, UCMJ,

10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795; EOJ. The members sentenced Appellant to a reprimand, reduction to the grade of E-4, a fine of \$2,500, forfeiture of all pay and allowances, and confinement for two years. R. at 1957; EOJ. The convening authority took no action on the findings but deferred the reduction in grade until entry of judgment, deferred the adjudged forfeitures from 14 days from the date the sentence was adjudged until entry of judgment, suspended the first six months of adjudged forfeitures for six months, disapproved the adjudged fine, and waived automatic forfeitures for six months, or until release from confinement or expiration of term of service, whichever is sooner. ROT Vol. 1, Convening Authority Decision on Action – *United States v. MSgt Nathaniel A. Casillas*, dated 2 June 2023.

The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Appellant is currently confined. Undersigned counsel has begun reviewing the record of trial in this case.

Counsel is currently representing 26 clients; 15 clients are pending initial AOE's before this Court.<sup>1</sup> One matter has priority over this case:

- 1) *United States v. Cadavona*, ACM 40476 – The record of trial is four volumes consisting of 11 prosecution exhibits, two defense exhibits, and 24 appellate exhibits; the

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<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel completed his review of the eight-volume record of trial and prepared and filed a 45-page AOE in *U.S. v. Kershaw*, ACM 40455; sat as second chair for oral argument before this Court and filed both a 29-page supplemental brief and a 27-page reply to the government's answer based on new post-trial disclosures in *U.S. v. Doroteo*, ACM 40363; reviewed approximately sixty-five percent of the four-volume record of trial in *U.S. v. Cadavona*, ACM 40476; reviewed 578 pages of a verbatim transcript requiring certification; and participated in a practice oral argument session for one additional case.



transcript is 329 pages. Undersigned counsel has reviewed approximately seventy percent of the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his 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 informed of his right to timely appeal, 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 tenth enlargement of time for good cause shown.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

**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 July 2024.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

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

UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.	)	
	)	
Master Sergeant (E-7)	)	ACM 40499
NATHANIEL A. CASILLAS, USAF,	)	
<i>Appellant.</i>	)	Special Panel
	)	

**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.

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

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

J. PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

**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 July 2024.

J. PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

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

UNITED STATES	)	No. ACM 40499
Appellee	)	
	)	
v.	)	
	)	<b>ORDER</b>
Nathaniel A. CASILLAS	)	
Master Sergeant (E-7)	)	
U.S. Air Force	)	
Appellant	)	<b>Special Panel</b>

On 17 July 2024, counsel for Appellant submitted a Motion for Enlargement of Time (Tenth) requesting an additional 30 days to submit Appellant's assignments of error. The Government opposes the motion.

The court has considered Appellant's motion, the Government's opposition, case law, and this court's Rules of Practice and Procedure. Accordingly, it is by the court on this 19th day of July, 2024,

**ORDERED:**

Appellant's Motion for Enlargement of Time (Tenth) is **GRANTED**. Appellant shall file any assignments of error not later than **26 August 2024**.

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



FOR THE COURT,

*OLGA STANFORD* Capt, USAF  
Commissioner

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (ELEVENTH)</b>
	)	
v.	)	Before Special Panel
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force,	)	16 August 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)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an eleventh 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 September 2024**. The record of trial was docketed with this Court on 2 August 2023. From the date of docketing to the present date, 380 days have elapsed. On the date requested, 420 days will have elapsed.

On 26 April 2022; 14–15, 19–20, and 24 September 2022; and 27 February – 5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. Record of Trial (ROT) Vol. 1, Entry of Judgment, dated 20 June 2023 (EOJ). Contrary to his pleas, a panel of officer members found Appellant guilty of one charge under the general article which consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one specification of failure to obey a lawful general order in violation of Article 92, UCMJ, 10 U.S.C. § 892; one charge which consisted of one specification of indecent exposure, one specification of indecent recording, and one specification of indecent

broadcasting, all in violation of Article 120c, UCMJ, 10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795; EOJ. The members sentenced Appellant to a reprimand, reduction to the grade of E-4, a fine of \$2,500, forfeiture of all pay and allowances, and confinement for two years. R. at 1957; EOJ. The convening authority took no action on the findings but deferred the reduction in grade until entry of judgment, deferred the adjudged forfeitures from 14 days from the date the sentence was adjudged until entry of judgment, suspended the first six months of adjudged forfeitures for six months, disapproved the adjudged fine, and waived automatic forfeitures for six months, or until release from confinement or expiration of term of service, whichever is sooner. ROT Vol. 1, Convening Authority Decision on Action – *United States v. MSgt Nathaniel A. Casillas*, dated 2 June 2023.

The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Appellant is currently confined. Undersigned counsel has reviewed approximately twenty percent of the record of trial in this case.

Counsel is currently representing 23 clients; 14 clients are pending initial AOE's before this Court.<sup>1</sup> This case is currently counsel's highest priority amongst cases pending initial AOE's before this court.

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<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately fifteen percent of the 14-volume record of trial in this case; prepared and filed an 18-page reply to the government's answer in *U.S. v. Kershaw*, ACM 40455; prepared and filed a 12-page motion for leave to file supplemental brief and supplemental brief in *U.S. v. Doroteo*, ACM 40363; completed his review of the four-volume record of trial and prepared and filed a 28-page AOE in *U.S. v. Cadavona*, ACM 40476; and reviewed 279 pages of a verbatim transcript requiring certification.

Through no fault of Appellant, undersigned counsel has been unable to complete his 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 informed of his right to timely appeal, 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 eleventh enlargement of time for good cause shown.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604



**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 August 2024.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

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

UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.	)	
	)	
Master Sergeant (E-7)	)	ACM 40499
NATHANIEL A. CASILLAS, USAF,	)	
<i>Appellant.</i>	)	Special Panel
	)	

**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.

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

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

MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force

**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 August 2024.

MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force

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

<b>UNITED STATES,</b>	)	<b>CONSENT MOTION</b>
<i>Appellee,</i>	)	<b>TO EXAMINE SEALED</b>
	)	<b>MATERIALS</b>
	)	
v.	)	Before Special Panel
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force,	)	29 August 2024
<i>Appellant.</i>	)	

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

Pursuant to Rule for Courts-Martial (R.C.M.) 1113(b)(3)(B)(i) and Rules 3.1, 23.1(b), and 23.3(f)(1) of this Honorable Court’s Rules of Practice and Procedure, Appellant, Master Sergeant Nathaniel A. Casillas, hereby moves this Court to permit appellate counsel for Appellant and the Government to examine Prosecution Exhibits 12, 15, 25, and 26; Appellate Exhibits XXXIV, XLVII, XLIX, LXXIX, CIV, CXII, CXXIII, and CLX; and PHO Exhibits 16 and 17 in Appellant’s record of trial.

**Facts**

On 26 April 2022; 14–15, 19–20, and 24 September 2022; and 27 February – 5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. Record of Trial Vol. 1, Entry of Judgment, 20 June 2023 (EOJ). Contrary to his pleas, a panel of officer members found Appellant guilty of one charge under the general article which consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one specification of failure to obey a lawful general order in violation of Article 92, UCMJ,

10 U.S.C. § 892; one charge which consisted of one specification of indecent exposure, one specification of indecent recording, and one specification of indecent broadcasting, all in violation of Article 120c, UCMJ, 10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795; EOJ. In the course of the proceedings, the court admitted into evidence the following exhibits which the military judge ordered sealed: Prosecution Exhibits 12, 15, 25, and 26. R. at 1937. Additionally, the court marked the following appellate exhibits which the military judge ordered sealed: Appellate Exhibits XXXIV, XLVII, XLIX,<sup>1</sup> LXXIX, CIV, CXII, CXXIII, and CLX. R. at 598, 1937; App. Exs. XXXV,<sup>2</sup> CLXVIII. Finally, the Preliminary Hearing Officer (PHO) ordered PHO Exhibits 16 and 17 sealed as well. Preliminary Hearing Report, 2 February 2022.

### **Law**

Appellate counsel may examine materials presented or reviewed at trial and sealed, as well as materials reviewed *in camera*, released to trial or defense counsel, and sealed, upon a colorable showing to the appellate authority that examination is reasonably necessary to a proper fulfillment of the appellate counsel's responsibilities under the UCMJ, the Manual for Courts-Martial, governing directives, instructions, regulations, applicable rules for practice and procedure, or rules of professional conduct. R.C.M. 1113(b)(3)(B)(i).

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<sup>1</sup> App. Ex. XLIX is recorded as sealed in the Exhibit Index found in Vol. 2 of the record of trial. Consistent with this, undersigned counsel's copy of the record of trial includes a slip sheet in place of App. Ex. XLIX that indicates the court ordered this exhibit sealed on page 597 of the transcript. While page 597 includes the marking of App. Ex. XLIX, the military judge did not explicitly order this exhibit sealed on that page, and undersigned counsel has not located any other order explicitly sealing this exhibit. R. at 597. This apparent discrepancy notwithstanding, Appellant includes App. Ex. XLIX in this motion to ensure appellate counsel for both Appellant and the Government can examine App. Ex. XLIX.

<sup>2</sup> App. Ex. XXXV, which is an order to seal two appellate exhibits, erroneously refers to Appellate Exhibit "XLXII," which does not exist because XLXII is not a proper Roman numeral. It is clear from the record that this was meant to be a reference to App. Ex. XLVII, a disk containing suspected contraband. R. at 598.

Air Force regulations governing professional duties and conduct of appellate defense counsel impose upon counsel, *inter alia*, a duty to provide “competent representation,” perform “reasonable diligence,” and to “give a client his or her best professional evaluation of the questions that might be presented on appeal...[to] consider all issues that might affect the validity of the judgment of conviction and sentence...[to] advise on the probable outcome of a challenge to the conviction or sentence...[and to] endeavor to persuade the client to abandon a wholly frivolous appeal or to eliminate contentions lacking in substance.” Air Force Instruction (AFI) 51-110, *Professional Responsibility Program*, Attachment 2: Air Force Rules of Professional Conduct, Rule 1.1, Attachment 7: Air Force Standards for Criminal Justice, Standard 4-8.3(b) (11 December 2018). These requirements are consistent with those imposed by the state bar to which counsel belongs.<sup>3</sup>

This Court may grant relief “on the basis of the entire record” of trial. Article 66, UCMJ, 10 U.S.C. § 866. Appellate defense counsel so detailed by The Judge Advocate General shall represent accused servicemembers before this Court. Article 70, UCMJ, 10 U.S.C. § 870. This Court’s “broad mandate to review the record unconstrained by appellant’s assignments of error” does not reduce “the importance of adequate representation” by counsel; “independent review is not the same as competent appellate representation.” *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998).

### **Analysis**

The sealed materials include four prosecution exhibits, eight appellate exhibits, and two PHO exhibits, all of which were “presented” and “reviewed” by the parties at trial or the preliminary hearing. R.C.M. 1113(b)(3)(B)(i). It is reasonably necessary for Appellant’s

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<sup>3</sup> Counsel of record is licensed to practice law in Georgia.

counsel to review these sealed materials for counsel to competently conduct a professional evaluation of Appellant's case and uncover all issues which might afford him relief. Because examination of the materials in question is reasonably necessary to the fulfillment of counsel's Article 70, UCMJ duties, and because the materials were available to the parties at trial or the preliminary hearing, Appellant has provided the "colorable showing" required by R.C.M. 1113(b)(3)(B)(i) to permit his counsel's examination of these sealed materials and has shown good cause to grant this motion.

The Government consents to both parties examining the sealed materials detailed above.

**WHEREFORE**, Appellant respectfully requests this Honorable Court grant this motion and permit examination of the aforementioned sealed materials contained within the original record of trial.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews, MD 20762-6604

**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 29 August 2024.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews, MD 20762-6604



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

UNITED STATES	)	No. ACM 40499
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Nathaniel A. CASILLAS	)	
Master Sergeant (E-7)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Special Panel</b>

On 29 August 2024, counsel for Appellant submitted a Consent Motion to Examine Sealed Materials, requesting both parties be allowed to examine Prosecution Exhibits 12, 15, 25, and 26; Appellate Exhibits XXXIV, XLVII, XLIX, LXXIX, CIV, CXII, CXXIII, and CLX; and Preliminary Hearing Officer (PHO) Exhibits 16 and 17, in Appellant’s record of trial which were reviewed by trial and defense counsel at Appellant’s court-martial.

Upon review of the record, the court discovered that PHO Exhibits 16 and 17 are not in the record of trial. The PHO report includes reference to PHO Exhibits 16 and 17, and a note in the record further indicates that “Exhibits 1–19 to the Preliminary Hearing Officer Report, dated 2 Feb 22, and the recorded audio can be found in Volume 7 of the Record of Trial behind the Pretrial tab as [A]ttachment 5 to the 51 FW/CC Forwarding of Charge Memorandum, dated 25 Feb 22.” Attachment 5 is a disk. Upon this court’s review of Attachment 5 to the 51 FW/CC Forwarding of Charge Memorandum, PHO Exhibits 16 and 17 are missing from the disk of this attachment. While PHO Exhibits 16 and 17 were ordered sealed by the PHO, Attachment 5 is not sealed as the two exhibits are not included with the attachment. The court will order production of PHO Exhibits 16 and 17 in its decretal paragraph below.

Appellate counsel may examine sealed materials released to counsel at trial “upon a colorable showing . . . that examination is reasonably necessary to a proper fulfillment of the appellate counsel’s responsibilities.” Rule for Courts-Martial 1113(b)(3)(B)(i), *Manual for Courts-Martial, United States* (2024 ed.).

The court finds Appellant has made a colorable showing that review of sealed materials is reasonably necessary for a proper fulfillment of appellate defense counsel’s responsibilities. This court’s order permits counsel for both parties to examine the materials currently available in Appellant’s record of trial.

Accordingly, it is by the court on this 5th day of September, 2024,

**ORDERED:**

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

Appellate defense counsel and appellate government counsel may view **Prosecution Exhibits 12, 15, 25, and 26**; and **Appellate Exhibits XXXIV, XLVII, XLIX, LXXIX, CIV, CXII, CXXIII, and CLX**, subject to the following conditions:

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

No counsel granted access to the materials may photocopy, photograph, reproduce, disclose, or make available the content to any other individual without the court's prior written authorization.

**It is further ordered:**

The Government is directed to ensure Appellant's record of trial contains PHO Exhibits 16 and 17 by coordinating with the base legal office and the Appellate Records Branch (JAJM) to ensure proper delivery of the sealed PHO Exhibits 16 and 17 for inclusion into the original record of trial maintained by the court. Appellate government counsel will provide notice to the court that such action has been complied with. Once these exhibits are provided to the court, appellate defense counsel and appellate government counsel are authorized to view **PHO Exhibits 16 and 17**, subject to the same conditions outlined above.



FOR THE COURT

CAROL K. JOYCE  
Clerk of the Court

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

<b>UNITED STATES,</b>	)	<b>UNITED STATES’ MOTION</b>
<i>Appellee,</i>	)	<b>TO ATTACH A DOCUMENT</b>
	)	
v.	)	Before Special Panel
	)	
Master Sergeant (E-7)	)	
<b>NATHANIEL A. CASILLAS</b>	)	No. ACM 40499
United States Air Force	)	
<i>Appellant.</i>	)	17 September 2024

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

Pursuant to Rules 23 and 23.3(b) of this Honorable Court’s Rules of Practice and Procedure, the United States respectfully requests to attach the following appendices to this motion:

**Appendix A – Declaration of TSgt C T dated 17 September 2024,  
(1 page)**

**Appendix B- MP3 Audio File titled: Casillas Arraignment Audio, dated 26 April  
2022 (1 electronic file contained on compact disc)**

The attached declaration and audio file are responsive to Appellant’s Motion for Leave to File Motion for Remand. (*Motion for Leave to File Motion for Remand*, dated 9 September 2024.) In his motion, Appellant requests this Court remand his case due to the omission of the audio of his 26 April 2022 arraignment from the Record of Trial. (Id. at 2.) The attachments provide the omitted audio and provide evidence of their authenticity and an explanation of how the missing audio was provided by the base legal office. Including the attachments in the record would be beneficial to this Court for resolution of Appellant’s Motion.

Our Superior Court has held that matters outside the record may be considered “when doing so is necessary for resolving issues raised by materials in the record.” United States v.

Jessie, 79 M.J. 437, 444 (C.A.A.F. 2020). The Court has also concluded that “based on experience... ‘extra-record fact determinations’ may be ‘necessary to resolving appellate questions.’” Id. at 442. (quoting United States v. Parker, 36 M.J. 269, 272 (C.M.A. 1993)). Accordingly, the attached appendices are relevant and necessary to address Appellant’s request for remand and whether remand is necessary in this case.

WHEREFORE, the United States respectfully requests that this Honorable Court grant the motion to attach the document.

TYLER L. WASHBURN, Capt, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

MARY ELLEN PAYNE  
Associate Chief  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

**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 17 September 2024.

TYLER L. WASHBURN, Capt, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (TWELFTH)</b>
	)	
v.	)	Before Special Panel
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force,	)	18 September 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)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a twelfth 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 October 2024**. The record of trial was docketed with this Court on 2 August 2023. From the date of docketing to the present date, 413 days have elapsed. On the date requested, 450 days will have elapsed.<sup>1</sup>

On 26 April 2022; 14–15, 19–20, and 24 September 2022; and 27 February – 5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. Record of Trial (ROT) Vol. 1, Entry of Judgment, 20 June 2023 (EOJ). Contrary to his pleas, a panel of officer members found Appellant guilty of one charge which consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one

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<sup>1</sup> Appellant filed a Motion for Leave to File Motion for Remand and Motion for Remand on 9 September 2024, and these motions are currently pending before this Court. If the Motion for Remand is granted, it will moot this Motion for Enlargement of Time.

specification of failure to obey a lawful general order in violation of Article 92, UCMJ, 10 U.S.C. § 892; one charge which consisted of one specification of indecent exposure, one specification of indecent recording, and one specification of indecent broadcasting, all in violation of Article 120c, UCMJ, 10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795; EOJ. The members sentenced Appellant to a reprimand, reduction to the grade of E-4, a fine of \$2,500, forfeiture of all pay and allowances, and confinement for two years. R. at 1957; EOJ. The convening authority took no action on the findings but deferred the reduction in grade until entry of judgment, deferred the adjudged forfeitures from 14 days from the date the sentence was adjudged until entry of judgment, suspended the first six months of adjudged forfeitures for six months, disapproved the adjudged fine, and waived automatic forfeitures for six months, or until release from confinement or expiration of term of service, whichever is sooner. ROT Vol. 1, Convening Authority Decision on Action – *United States v. MSgt Nathaniel A. Casillas*, 2 June 2023.

The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Appellant is currently confined. Undersigned counsel has reviewed approximately eighty percent of the record of trial in this case.

Counsel is currently representing 24 clients; 15 clients are pending initial AOE's before this Court.<sup>2</sup> This case is currently counsel's highest priority amongst cases pending initial AOE's

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<sup>2</sup> Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately sixty percent of the 14-volume record of trial and prepared and filed a Motion for Remand in this case; reviewed approximately sixty percent of the eight-volume record of trial in *U.S. v. Rodgers*, ACM 40528; and began drafting the petition for grant of review and the supplement to the petition in *U.S. v. Taylor*, ACM 40371.

before this Court.

Through no fault of Appellant, undersigned counsel has been unable to complete his 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 informed of his right to timely appeal, 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 twelfth enlargement of time for good cause shown.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604



**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 September 2024.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604

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

UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.	)	
	)	
Master Sergeant (E-7)	)	ACM 40499
NATHANIEL A. CASILLAS, USAF,	)	
<i>Appellant.</i>	)	Special Panel
	)	

**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.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 450 days in length. Appellant's over a year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 4 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not completed review of the record of trial at this late stage of the appellate process.

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

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

**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 September 2024.

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

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

<b>UNITED STATES,</b>	)	<b>MOTION FOR LEAVE TO FILE</b>
<i>Appellee,</i>	)	<b>MOTION FOR REMAND AND</b>
	)	<b>MOTION FOR REMAND</b>
	)	
v.	)	Before Special Panel
	)	
Master Sergeant (E-7)	)	No. ACM 40499
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force,	)	9 September 2024
<i>Appellant.</i>	)	

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

Pursuant to Rules 23(d) and 23.3 of this Honorable Court’s Rules of Practice and Procedure, Appellant, Master Sergeant Nathaniel A. Casillas, moves for leave to file a motion for remand. Pursuant to the same rules, the motion for leave to file the pleading and pleading are combined herein. Appellant requests this Court remand the record of trial to correct it by including a substantially verbatim recording of the arraignment proceedings held on 26 April 2022 as well as Preliminary Hearing Officer (PHO) Exhibits 16 and 17.

**Facts**

On 26 April 2022; 14–15, 19–20, and 24 September 2022; and 27 February–5 March 2023, Appellant was tried by a general court-martial at Osan Air Base, Republic of Korea. R. at 1, 58, 156, 349, 480, 553, 630, 1957. Contrary to his pleas, a panel of officer members found Appellant guilty of one charge that consisted of two specifications of possession of child pornography, one specification of extramarital sexual conduct, six specifications of indecent language, and five specifications of indecent conduct, all in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934; one charge with one specification of failure to obey a lawful general order in violation of Article 92, UCMJ, 10 U.S.C. § 892; one charge which consisted of one

specification of indecent exposure, one specification of indecent recording, and one specification of indecent broadcasting, all in violation of Article 120c, UCMJ, 10 U.S.C. § 920c; and one additional charge with one specification of viewing child pornography in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at 1795. The members sentenced Appellant to a reprimand, reduction to the grade of E-4, a fine of \$2,500, forfeiture of all pay and allowances, and confinement for two years. R. at 1957. The convening authority took no action on the findings but deferred the reduction in grade until entry of judgment, deferred the adjudged forfeitures from 14 days from the date the sentence was adjudged until entry of judgment, suspended the first six months of adjudged forfeitures for six months, disapproved the adjudged fine, and waived automatic forfeitures for six months, or until release from confinement or expiration of term of service, whichever is sooner. Convening Authority Decision on Action – *United States v. MSgt Nathaniel A. Casillas*, 2 June 2023.

#### *Recording of Arraignment Hearing*

Appellant was arraigned on 26 April 2022. R. at 18. The military judge noted this arraignment during a subsequent hearing, stating that she would not ask the trial counsel to arraign Appellant again as a result. R. at 35. The record of trial (ROT) includes two discs containing audio recordings of the proceedings in this court-martial. Disc labeled “CUI, US v. Casillas, 27 Feb – 5 Mar 23 Disc 1 of 1, Open Sessions Only;” disc labeled “CUI, US v. Casillas, Arraignment 14 – 24 Sept 22, Disc 1 of 1 Open Sessions.” One of the discs contains audio recordings of the open sessions from 27 February to 5 March 2023, while the second disc contains audio recordings of the open sessions from 14–15, 19–20, and 24 September 2022. *Id.* Neither disc includes the audio from the arraignment on 26 April 2022. *Id.*; *see also* R. at 2–20 (written transcript from the arraignment on 26 April 2022). Notably, although one disc includes “Arraignment” in its label, it

does not actually contain an audio recording of the arraignment proceedings on 26 April 2022. *See* disc labeled “CUI, US v. Casillas, Arraignment 14 – 24 Sept 22, Disc 1 of 1 Open Sessions.”

*Preliminary Hearing Officer Exhibits 16 and 17*

As part of the preliminary hearing, the PHO ordered PHO Exhibits 16 and 17 sealed. Preliminary Hearing Report, 2 February 2022. Appellant’s counsel moved the Court to permit appellate counsel for both parties to examine sealed materials, including PHO Exhibits 16 and 17. Order, *United States v. Casillas*, No. ACM 40499, 5 September 2024. The Court granted this motion but, when doing so, also noted that PHO Exhibits 16 and 17 were missing from the disc that was supposed to contain all of the PHO exhibits. *Id.* The Court directed the Government “to ensure Appellant’s record of trial contains PHO Exhibits 16 and 17 by coordinating with the base legal office and the Appellate Records Branch (JAJM) to ensure proper delivery of the sealed PHO Exhibits 16 and 17 for inclusion into the original record of trial maintained by the court.” *Id.*

**Law and Analysis**

Article 54(c)(2), UCMJ, states that a “complete record of proceedings and testimony shall be prepared in any case” where the sentence includes confinement for more than six months, as is the case here because Appellant’s sentence includes confinement for two years. 10 U.S.C. § 854; R. at 1957. A substantial omission renders a record of trial incomplete and raises a presumption of prejudice that the Government must rebut. *United States v. Henry*, 53 M.J. 108, 111 (C.A.A.F. 2000) (citations omitted). “Insubstantial” omissions from a record of trial do not render the record incomplete. *See id.* at 111 (holding that four missing prosecution exhibits were insubstantial omissions when other exhibits of similar sexually explicit material were included). The threshold question is whether the missing exhibits are substantial, either qualitatively or quantitatively. *United States v. Davenport*, 73 M.J. 373, 377 (C.A.A.F. 2014). Omissions may

be quantitatively insubstantial when, considering the entire record, the omission is “so unimportant and so uninfluential . . . that it approaches nothingness.” *Id.* (citing *United States v. Nelson*, 3 C.M.A. 482 (C.M.A. 1953)). This Court individually analyzes whether an omission is substantial. *United States v. Abrams*, 50 M.J. 361, 363 (C.A.A.F. 1999). However, the Court has also recently noted “a systemic problem indicating institutional neglect” across the Air Force based on post-trial processing errors like those noted here. *United States v. Valentin-Andino*, No. ACM 40185 (f rev), 2024 CCA LEXIS 223, at \*17 (A.F. Ct. Crim. App. June 7, 2024).

The record of trial for a general court-martial shall include “[a] substantially verbatim recording of the court-martial proceedings except sessions closed for deliberations and voting.” R.C.M. 1112(b)(1). A record of trial that does not include a substantially verbatim recording of the court-martial proceedings is incomplete and should be remanded for correction. *United States v. Valentin-Andino*, 83 M.J. 537, 540–41 (A.F. Ct. Crim. App. 2023). Appellant’s record of trial is incomplete because it does not include a substantially verbatim recording of the arraignment hearing conducted on 26 April 2022. R. at 18. This Court has previously found the omission of an arraignment hearing is quantitatively substantial. *United States v. Matthew*, No. ACM 39796 (f rev), 2022 CCA LEXIS 425, at \*11-12 (A.F. Ct. Crim. App. July 21, 2022) (citing *United States v. Tate*, 82 M.J. 291, 294–95 (C.A.A.F. 2022)); *see also United States v. Kershaw*, No. ACM 40455, 2024 CCA LEXIS 354, at \*5 (A.F. Ct. Crim App. Aug. 26, 2024) (holding record of trial was substantially incomplete when it did not include verbatim audio recording of arraignment proceedings). The same is true here. The omission of the arraignment and motions hearing audio is substantial because it deprives the record of a required recording and prevents a complete assessment of this session, including the opportunity to verify the accuracy of the written transcript using the source audio. R.C.M. 1112(b)(1).

The appropriate remedy for the omitted audio recording is remand for correction. An incomplete record may be returned to the military judge for correction. R.C.M. 1112(d)(2); *e.g.*, *United States v. Welsh*, No. ACM S32719, 2022 CCA LEXIS 631, at \*2-3 (A.F. Ct. Crim. App. Oct. 26, 2022) (explaining R.C.M. 1112(d) provides for correction of a record of trial found to be incomplete or defective after authentication and returning the ROT for correction after finding the absence of eight attachments to the stipulation of fact substantial); *United States v. Mardis*, No. ACM 39980, 2022 CCA LEXIS 10, at \*9-10 (A.F. Ct. Crim. App. Jan. 6, 2022). R.C.M. 1112(d)(2) states, “A superior competent authority may return a [ROT] to the military judge for correction under this rule. The military judge shall give notice of the proposed correction to all parties and permit them to examine and respond to the proposed correction.” Accordingly, this Court recently remanded a record of trial to correct the record by including missing verbatim audio recordings from arraignment proceedings. *Kershaw*, 2024 CCA LEXIS 354, at \*5–6. The Court should do the same here.

In contrast, attachments to the appellate record do not complete the record. *See United States v. Garcia-Arcos*, No. ACM 40009, 2022 CCA LEXIS 339, at \*6 (A.F. Ct. Crim. App. Jun. 9, 2022) (“[W]e do not consider the attachments to the appellate record as a means to complete the record; we assume our granting both motions does not change the fact that the record, as certified and submitted to the court, is incomplete.”); *Welsh*, 2022 CCA LEXIS 631, at \*2 (“We acknowledge the motion to attach was granted, but we do not agree that this cures the defect without the exhibit actually being incorporated into the ROT.”); *Mardis*, 2022 CCA LEXIS 10, at \*7 (“[W]e considered the attachments to trial counsel’s declaration to determine whether the omission of the exhibits from the record of trial was substantial, . . . ; we did not consider the exhibits as a means to complete the record.”).



Although R.C.M. 1112(b) does not explicitly require the inclusion of PHO exhibits in a complete record of trial, this Court has already recognized the need to include PHO Exhibits 16 and 17 in the original record of trial. *See Order, United States v. Casillas*, No. ACM 40499, 5 September 2024. The Court ordered this correction without directing remand of the record of trial. *Id.* However, since remand is necessary to correct the record by including a substantially verbatim recording of the arraignment proceedings, PHO Exhibits 16 and 17 can also be included while the case is remanded.

Remanding the record of trial now, before Appellant files his assignments of error, serves the interest of judicial economy by allowing the record to be corrected while Appellant is preparing his assignments of error. If the corrections are completed, this will also allow Appellant to review a complete record of trial and incorporate the missing materials into his assignments of error as necessary. Finally, if the corrections cannot be made, Appellant will be able to address the appropriate relief in his assignments of error. *See R.C.M. 1112(d)(3)* (describing potential remedies for incomplete records).

**WHEREFORE**, Appellant respectfully requests this Honorable Court grant this motion for leave to file a motion for remand and remand Appellant's record of trial to the Chief Trial Judge, Air Force Trial Judiciary, for correction of the record of trial.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews, MD 20762-6604

**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 9 September 2024.

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews, MD 20762-6604

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

UNITED STATES,	)	UNITED STATES' RESPONSE
<i>Appellee,</i>	)	TO MOTION FOR LEAVE TO
	)	FILE MOTION FOR REMAND
v.	)	
	)	No. ACM 40499
	)	
Master Sergeant (E-7)	)	Before Special Panel
<b>NATHANIEL A. CASILLAS,</b>	)	
United States Air Force,	)	
<i>Appellant.</i>	)	16 September 2024

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

Pursuant to Rules 23.2 of this Court’s Rules of Practice and Procedure, the United States hereby responds to Appellant’s motion for leave to file a motion for remand. The United States opposes the motion as remand is not appropriate in this case.

***Supplemental Statement of the Facts***

*This Court’s order addressing omitted PHO Exhibits*

On 29 August 2024, Appellant submitted a Consent Motion to Examine Sealed Materials. (*Order*, dated 5 September 2024.) On 5 September 2024, this Court granted that motion and directed the government “to ensure Appellant’s record of trial contains PHO Exhibits 16 and 17 by coordinating with the base legal office and the Appellate Records Branch (JAJM) to ensure proper delivery of the sealed PHO Exhibits 16 and 17 for inclusion in the original record of trial maintained by [this] [C]ourt.” (Id.) Undersigned counsel has coordinated with the base legal office and confirmed that the sealed exhibits are maintained at the Air Force Office of Special Investigations (OSI) detachment at Osan Air Base, Korea. The base legal office is coordinating with OSI to assemble the sealed Preliminary Hearing Officer (PHO) Exhibits 16 and 17 and provide them in accordance with this Court’s order. (Id.)

*Appellant's Motion for Leave to File Motion for Remand*

On 9 September 2024, Appellant filed a motion for leave to file a motion for remand. As justification for his request, Appellant cites two alleged errors with the Record of Trial (ROT). Specifically, Appellant claims the audio of Appellant's 26 April 2022 arraignment is omitted from the record of trial. (*Motion for Leave to file Motion for Remand*, dated 9 September 2024, at 2.) Further, Appellant asserts that the omission of PHO Exhibits 16 and 17 provides additional justification for remand. (*Id.* at 6.) While the audio of Appellant's 26 April 2022 arraignment is not included in the ROT, the arraignment was transcribed and is included in full in the verbatim transcript of proceedings contained in the ROT. (R. at 1-20.) Prior to the certification of the verbatim transcript both trial counsel and trial defense counsel reviewed the transcript and attested to its accuracy. (*Trial Counsel's Examination of Transcript*, dated 21 June 2023, ROT, Vol. 8; *Trial Defense Counsel's Examination of Transcript*, dated 27 March 2023, ROT, Vol. 8).

On 10 September undersigned counsel contacted the base legal office and notified them of the omission of the audio of Appellant's 26 April 2022 arraignment from the ROT. On 12 September 2024, the base legal office provided an audio file to undersigned counsel via DoD SAFE. Undersigned counsel downloaded the file and verified that the audio file provided by the base legal office appears to be the omitted audio of Appellant's arraignment. Undersigned counsel contacted the base legal office and requested they provide a signed declaration to accompany the audio file. As of the date of this filing, undersigned counsel has not received a signed declaration from the base legal office but expects to receive one within 48 hours. Once undersigned counsel receives a signed declaration detailing how the file was retrieved and verifying its authenticity, the government intends to file a motion to attach the omitted audio to the ROT.

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

Whether a record of trial is complete is a question of law that courts review *de novo*. United States v. Henry, 53 M.J. 108, 110 (C.A.A.F. 2000). Whether an omission from a record of trial is “substantial” is a question of law reviewed *de novo*. United States v. Stoffer, 53 M.J. 26, 27 (C.A.A.F. 2000). Proper completion of post-trial processing is a question of law subject to *de novo* review. United States v. Sheffield, 60 M.J. 591, 593 (A.F. Ct. Crim. App. 22 Jul. 2004).

### ***Law and Argument***

A complete record of proceedings, including all exhibits and a verbatim transcript, must be prepared for any general or special court-martial where a sentence of “death, dismissal, discharge, confinement for more than six months, or forfeiture of pay for more than six months” is adjudged. Article 54(c)(2), UCMJ. Appellate courts understand that inevitably records will be imperfect, and therefore review for substantial omissions. United States v. Lashley, 14 M.J. 7, 8 (C.M.A. 1982). A substantial omission renders a record incomplete and raises a presumption of prejudice that the government must rebut. United States v. Henry, 53 M.J. 108, 111 (citing United States v. McCullah, 11 M.J. 234, 237 (C.M.A. 1981)). Insubstantial omissions do not raise a presumption of prejudice or affect the record’s characterization as complete. *Id.* A substantial omission may not be prejudicial if the appellate courts can conduct an informed review. *See* United States v. Simmons, 54 M.J. 883, 887 (N-M. Ct. Crim. App. 2001); *see also* United States v. Morrill, ARMY 20140197, 2016 CCA LEXIS 644, at \*4-5 (A. Ct. Crim. App. 31 October 2016) (unpub. op.) (finding that despite the omission from the record of an Article 39(a) session containing the military judge’s findings and conclusions related to an R.C.M. 917 motion, the record, as it was, was “adequate to permit informed review by this court

and any other reviewing authorities”). R.C.M. 1112(b) states that a record of trial shall include “[a] substantially verbatim recording of the court-martial proceedings.” In United States v. Mobley, this Court remanded proceedings when the audio of an arraignment was missing from the record of trial. ACM 40088, 2022 CCA LEXIS 79, \*3 (A.F. Ct. Crim. App. 4 February 2022) (unpub. op). This Court noted that the court reporter erred by failing to attach the transcript to the record. Id.

The lack of audio of Appellant’s 26 April 2022 arraignment is an insubstantial omission. The verbatim transcript of the court-martial proceedings is part of the record and captures the 26 April 2022 arraignment. Appellant concedes as much. (*Motion for Leave to file Motion for Remand*, dated 9 September 2024, at 2.) This Court can conduct a meaningful and informed appellate review based on the verbatim transcript. See United States v. Credit, 4 M.J. 118, 119 (C.M.A. 1977) (explaining that “a trial transcript is, indeed, the very heart of the criminal proceedings and the single element essential to [appellate court’s] meaningful appellate review...).

*Omission of the audio is not a substantial omission warranting relief.*

The court-martial proceedings audio exists in this case. The government is prepared to provide it to this Court as an attachment to the record once the government receives a signed declaration from the base legal office. Even if the audio did not exist, the lack of audio is not a substantial omission. To support his position that this is a substantial omission (*Motion for Leave to file Motion for Remand*, dated 9 September 2024, at 4), Appellant relies on United States v. Matthew, ACM 39796 (f rev), 2022 CCA LEXIS 425, at \*11-12 (A.F. Ct. Crim. App. July 21, 2022) where this Court held that the omitted matters included both audio and a transcript of the appellant’s arraignment and this Court “could not review the sufficiency of Appellant’s

advisement of his right to counsel and forum selection.” *Id.* at \*12. Here, the situation is significantly different. While the audio was not included, the certified verbatim transcript transcribed the entire court-martial proceedings, from arraignment to the announced sentence. The transcript was reviewed by both trial counsel and trial defense counsel. (*Trial Counsel’s Examination of Transcript*, dated 21 June 2023, ROT, Vol. 8; *Trial Defense Counsel’s Examination of Transcript*, dated 27 March 2023, ROT, Vol. 8). If the transcript was inaccurate, Appellant’s own counsel was given the opportunity to make corrections. Since Appellant’s counsel reviewed the transcript and raised no objections, Appellant should not be able to complain now that the transcript is inadequate for this Court to conduct its appellate review. In Mobley, this Court decided that the lack of audio was a substantial omission because the audio and written transcript of the arraignment were not inserted in the record. Mobley, unpub. op. at \*3. Here, a verbatim transcript of the entire court-martial proceedings exists and is part of the record of trial. This Court should find that the omitted audio is not a substantial omission and decline to remand this case. This is especially true where the government stands ready to provide the audio as an attachment to the record, once it receives a signed declaration from the base legal office.

*Remand is not necessary to correct the omission of PHO Exhibits 16 and 17*

Appellant concedes R.C.M. 1112(b) does not explicitly require the inclusion of PHO Exhibits in a complete record of trial. (*Motion for Leave to File Motion for Remand*, dated 9 September 2024.) This Court has already addressed this issue and ordered the government to remedy the omission of PHO Exhibits 16 and 17 from the ROT. Notably, this Court did not order remand after identifying the omissions. The government is in the process of retrieving the



omitted materials from the OSI detachment and will provide them as soon as reasonably practicable. Thus, a remand is not necessary to correct the omission of these materials.

The lack of audio is not an omission that warrants relief. The verbatim transcript inserted in the record of trial provides the opportunity for Appellant to receive meaningful appellate review. Moreover, this Court has already issued an order to remedy the omission of PHO Exhibits 16 and 17 and the government is in the process of rectifying that error. Thus, this Court should deny Appellant's motion for leave to file a motion for remand.

**WHEREFORE**, the government respectfully requests this Honorable Court deny Appellant's motion for leave to file a motion for remand.

Respectfully submitted,

TYLER L. WASHBURN, Capt, USAF  
Appellate Government Counsel, Government Trial  
and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4800

FOR

MARY ELLEN PAYNE  
Associate Chief  
Government Trial and Appellate Operations  
Division  
Military Justice and Discipline Directorate  
United States Air Force

JENNY A. LIABENOW, Lt Col, USAF  
Director of Operations  
Government Trial and  
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1500 W. Perimeter Rd., Ste. 1190  
Joint Base Andrews, MD 20762

**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 16 September 2024 via electronic filing.

TYLER L. WASHBURN, Capt, USAF  
Appellate Government Counsel, Government Trial  
and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

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

UNITED STATES	)	No. ACM 40499
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Nathaniel A. CASILLAS	)	
Master Sergeant (E-7)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Special Panel</b>

Appellant’s case was docketed with the court on 14 December 2023.

On 29 August 2024, counsel for Appellant submitted a Consent Motion to Examine Sealed Materials, which this court granted on 5 September 2024. During this court’s review of the record in response to this motion, the court discovered that Preliminary Hearing Officer (PHO) Exhibits 16 and 17 were not in the record of trial. In our 5 September 2024 order, we directed the Government “to ensure Appellant’s record of trial contain[ed] PHO Exhibits 16 and 17 by coordinating with the base legal office and the Appellate Records Branch (JAJM) to ensure proper delivery of the sealed PHO Exhibits 16 and 17 for inclusion into the original record of trial maintained by the court.”

On 9 September 2024, Appellant filed a Motion for Leave to File Motion for Remand and Motion for Remand. Appellant noted that the record of trial includes two discs containing audio recordings of the open session proceedings in his court-martial.\* Appellant further notes, that although one disc from the record of trial includes “Arraignment” in its label, it does not actually contain an audio recording of the arraignment proceedings on 26 April 2022. Appellant requests this court remand the record of trial to correct the PHO exhibits and the missing audio recording of the arraignment.

On 16 September 2024, the Government responded to Appellant’s motions related to the remand and opposed the Appellant’s motion for leave to file a motion to remand and the motion to remand, stating that “remand is not appropriate in this case.” The Government argues that while the audio of Appellant’s 26 April 2022 arraignment is not included in the record of trial, “the

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\* Appellant’s motion explains that “[o]ne of the discs contains audio recordings of the open sessions from 27 February to 5 March 2023, while the second disc contains audio recordings of the open sessions from 14–15, 19–20, and 24 September 2022. Neither disc includes the audio from the arraignment on 26 April 2022.” (Citations omitted).

arraignment was transcribed and is included in full in the verbatim transcript of proceedings contained in the [record of trial].” In this response, the Government also informed the court that government appellate counsel contacted the base legal office to address the omission of the audio. On 12 September 2024, the base legal office provided an audio file to appellate government counsel and was to provide a signed declaration, detailing how the file was retrieved and verifying its authenticity, in response to Appellant’s motion, accompanied by the audio file. The Government further informed the court that it intended to then file a motion to attach the omitted audio to the record of trial.

On 17 September 2024, the Government moved this court to attach two matters to the record of trial: (1) an affidavit by a noncommissioned officer of the base legal office explaining the manner in which the audio was retrieved; and (2) the arraignment audio of Appellant’s trial, dated 26 April 2022. The opposition period for this motion had not expired yet.

On 18 September 2024, Appellant also moved this court to grant Appellant’s Motion for Enlargement of Time (Twelfth) and acknowledged that if Motion for Remand is granted, it will moot this motion for an enlargement of time. On 20 September 2024, the Government opposed this motion.

Without determining that the omission of the audio is a substantial omission, the court finds that this omission, combined with the missing PHO exhibits, merit a brief remand to ensure accuracy of Appellant’s record moving forward.

Accordingly, it is by the court on this 24th day of September, 2024,

**ORDERED:**

Appellant’s Motion for Leave to File Motion for Remand and Motion for Remand are **GRANTED**.

The record of trial in Appellant’s case is **RETURNED** to the Chief Trial Judge, Air Force Trial Judiciary, for correction under R.C.M. 1112(d) to account for the above-described matters, and any other portion of the record that is determined to be missing or defective hereafter, after consultation with the parties. *See* Article 66(g), UCMJ, 10 U.S.C. § 866(g); R.C.M. 1112(d)(2)–(3). Thereafter, the record of trial will be returned to this court for completion of its appellate review under Article 66(d), UCMJ, 10 U.S.C. § 866(d).

The record of trial will be returned to the court not later than **15 October 2024**. If the record cannot be returned to the court by that date, the Government will inform the court in writing not later than **15 October 2024** of the status of the Government’s compliance with this order.

**It is further ordered:**

The Government's Motion to Attach Document, dated 17 September 2024, is **DENIED**.

Additionally, Appellant's Motion for Enlargement of Time (Twelfth), dated 18 September 2024, is **MOOT**.



FOR THE COURT

CAROL K. JOYCE  
Clerk of the Court