

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION</b>
<i>Appellee,</i>	)	<b>FOR ENLARGEMENT</b>
	)	<b>OF TIME (FIRST)</b>
v.	)	
	)	Before Panel No. 2
Technical Sergeant (E-6)	)	
<b>CHRISTIAN M. CASTILLO,</b>	)	No. ACM 40705
United States Air Force,	)	
<i>Appellant.</i>	)	20 December 2024

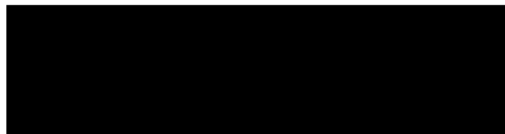
**TO THE HONORABLE, THE JUDGES OF THE UNITED STATES  
AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 60 days, which will end on **4 March 2025**.

Appellant’s case was docketed with this Court on 4 November 2024. From the date of docketing to the present date, 46 days have elapsed. On the date requested, 120 days will have elapsed since docketing.

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

Respectfully submitted,



JORDAN L. GRANDE, Capt, USAF  
Appellate Defense Counsel



**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 Air Force Government Trial and Appellate Operations Division on 20 December 2024.

[REDACTED]

JORDAN L. GRANDE, Capt, USAF  
Appellate Defense Counsel

[REDACTED]

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

UNITED STATES,	)	UNITED STATES' GENERAL
	)	OPPOSITION TO APPELLANT'S
<i>Appellee,</i>	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
Technical Sergeant (E-6)	)	ACM 40705
CHRISTIAN M. CASTILLO, USAF,	)	
<i>Appellant.</i>	)	Panel No. 2
	)	

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

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

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

[REDACTED]

JENNY A. LIABENOW, Lt Col, USAF  
Director of Operations

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**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 23 December 2024.

[REDACTED]

JENNY A. LIABENOW, Lt Col, USAF  
Director of Operations

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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

UNITED STATES	)	No. ACM 40705
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Christian M. CASTILLO	)	
Technical Sergeant (E-6)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 2</b>

On 20 December 2024, counsel for Appellant submitted a Motion for Enlargement of Time (First) requesting an additional 60 days to submit Appellant’s assignments of error. The Government opposes the motion.

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

Accordingly, it is by the court on this 23rd day of December, 2024,

**ORDERED:**

Appellant’s Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error **not later than 4 March 2025**.

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

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

Counsel may request, and the court may order *sua sponte*, a status conference to facilitate timely processing of this appeal.

Appellant's counsel is further advised that any future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, will not be granted absent exceptional circumstances.



FOR THE COURT



OLGA STANFORD, Capt, USAF  
Chief Commissioner

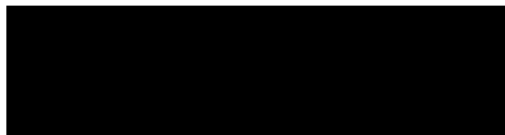


The record of trial consists of seven volumes, with five Prosecution Exhibits, one Court Exhibit, one Defense Exhibit, and thirty-four Appellate Exhibits. The transcript is 470 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,

A large black rectangular redaction box covering the signature of the undersigned counsel.

JORDAN L. GRANDE, Capt, USAF  
Appellate Defense Counsel

A large black rectangular redaction box covering the contact information of the undersigned counsel.

**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 Air Force Government Trial and Appellate Operations Division on 23 February 2025.

[REDACTED]

JORDAN L. GRANDE, Capt, USAF  
Appellate Defense Counsel

[REDACTED]

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

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
Technical Sergeant (E-6)	)	ACM 40705
CHRISTIAN M. CASTILLO, USAF,	)	
<i>Appellant.</i>	)	Panel No. 2
	)	

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

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

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

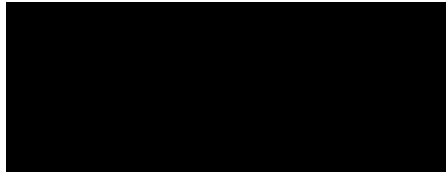
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THOMAS J. ALFORD, Lt Col, USAFR  
Appellate Government Counsel

[Redacted contact information]

**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 February 2025.



THOMAS J. ALFORD, Lt Col, USAFR  
Appellate Government Counsel





The record of trial consists of seven volumes, with five Prosecution Exhibits, one Court Exhibit, one Defense Exhibit, and thirty-four Appellate Exhibits. The transcript is 470 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,



JORDAN L. GRANDE, Capt, USAF  
Appellate Defense Counsel



**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 Air Force Government Trial and Appellate Operations Division on 24 March 2025.



JORDAN L. GRANDE, Capt, USAF  
Appellate Defense Counsel



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

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 2
Technical Sergeant (E-6)	)	
<b>CHRISTIAN M. CASTILLO,</b>	)	No. ACM 40705
United States Air Force,	)	
<i>Appellant.</i>	)	24 March 2025

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

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

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

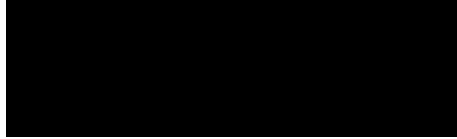
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VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel

[Redacted contact information]

**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 March 2025.



VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel





The record of trial consists of seven volumes, with five Prosecution Exhibits, one Court Exhibit, one Defense Exhibit, and thirty-four Appellate Exhibits. The transcript is 470 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Maj Grande is currently assigned 27 cases; 22 cases are pending before this Court (18 cases are pending AOE). Eight cases have priority over the present case:

1. *United States v. Serjak*, USCA Dkt. No. 25-0120/AF; Crim.App. No. 40392 – The record of trial consists of twelve volumes, fourteen Prosecution Exhibits, ten Defense Exhibits, three Court Exhibits, and eighty-four Appellate Exhibits. Undersigned counsel is currently drafting Appellee’s Answer, which is due 21 May 2025.
2. *United States v. Ledee-Nicholls*, ACM No. 40667 - The record of trial consists of one e-ROT with six volumes, three prosecution exhibits, twenty Defense Exhibits, and four Appellate Exhibits; the transcript is 122 pages long. Undersigned counsel is currently drafting the AOE.
3. *United States v. Boggs*, ACM No. 40678 – The record of trial consists of nine Prosecution Exhibits, one Defense Exhibit, and twenty-six Appellate Exhibits; the transcript is 161 pages long. Undersigned counsel has not yet completed her review of the record of trial in this case.
4. *United States v. Hedgepath*, ACM No. 40681– The record of trial consists of one ROT with four volumes, three Prosecution Exhibits, one Court Exhibit, three Defense Exhibits, and five Appellate Exhibits; the transcript is 115 pages long. Undersigned counsel has not yet completed her review of the record of trial in this case.

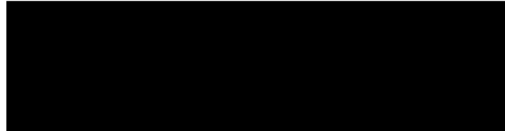
5. *United States v. Rockrich*, ACM No. 40666 – The record of trial consists of two Prosecution Exhibits, one Defense Exhibit, and sixteen Appellate Exhibits; the transcript is 96 pages long. Appellant is currently confined. Undersigned counsel has completed her review of the transcript for this case; but not the entire record.
6. *United States v. Hilson*, ACM No. 24063 – The record of trial consists of one E-ROT with two volumes. It contains two Prosecution Exhibits, one Court Exhibit, eight Defense Exhibits, and four Appellate Exhibits. The transcript is 156 pages long. Undersigned counsel has not yet completed her review of the record in this case.
7. *United States v. Fundis*, ACM No. 40689- The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Undersigned counsel has not yet completed her review of the record in this case.
8. *United States v. Reese*, ACM No. 24069 – The record of trial consists of one E-ROT containing two volumes, with twelve Prosecution Exhibits, four Court Exhibits, fourteen Defense Exhibits, and fifty-six Appellate Exhibits. The transcript is 1310 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose

a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,

A large black rectangular redaction box covering the signature area.

JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel

A large black rectangular redaction box covering the contact information, including phone and email details.

**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 Air Force Government Trial and Appellate Operations Division on 25 April 2025.

[REDACTED]

JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel

[REDACTED]

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

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 2
Technical Sergeant (E-6)	)	
<b>CHRISTIAN M. CASTILLO,</b>	)	No. ACM 40705
United States Air Force,	)	
<i>Appellant.</i>	)	29 April 2025

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

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

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

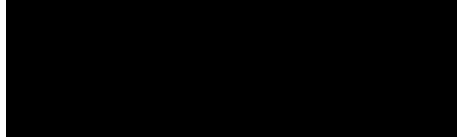
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VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel

[REDACTED]  
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**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 29 April 2025.



VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel



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

UNITED STATES, <i>Appellee,</i>	)	<b>APPELLANT’S MOTION</b>
	)	<b>FOR ENLARGEMENT</b>
	)	<b>OF TIME (FIFTH)</b>
v.	)	
	)	Before Panel No. 2
Technical Sergeant (E-6)	)	
<b>CHRISTIAN M. CASTILLO,</b>	)	No. ACM 40705
United States Air Force,	)	
<i>Appellant.</i>	)	27 May 2025

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

Pursuant to Rule 23.3(m)(1) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **2 July 2025**.

Appellant’s case was docketed with this Court on 4 November 2024. From the date of docketing to the present date, 204 days have elapsed.<sup>1</sup> On the date requested, 240 days will have elapsed since docketing.

On 9 November 2022 and on 21 February 2023, Appellant was tried by a General Court-Martial composed of a military judge at Scott Air Force Base, Illinois. R. at 1, 247, 292.

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<sup>1</sup> The filing of this Motion is timely in accordance with Rule 23.3(m)(1) of this Court’s Rules of Practice and Procedure. In accordance with JT. CT. CRIM. APP. R. 15 and Rule 15 of this Court’s Rules of Practice and Procedure, the seventh calendar day before this AOE is due is calculated as 27 May 2025 because 26 May 2025 was a federal holiday on which this Court was closed. This Court clarified its calculation of time in accordance with JT. CT. CRIM. APP. R. 15 in its 12 February 2025 Order in *United States v. Vongphachanh*, No. ACM 40741. In accordance with JT. CT. CRIM. APP. R. 15, when the last day of a period of time to be computed ends on “a Saturday, Sunday, holiday, or day on which the Court is closed,” that period of time, “runs until the end of the next day that is not a Saturday, Sunday, holiday, or day on which the Court is closed.” The last day of the period of time to be computed in this case (the seventh day before this AOE is due) was a federal holiday, and therefore, in accordance with JT. CT. CRIM. APP. R. 15 and Rule 15 of this Court’s Rules of Practice and Procedure, the end of that period runs until the next day this Court is not closed, which is 27 May 2025.

Appellant was convicted consistent with his pleas and pursuant to a plea agreement of Charge with one Specification of abusive sexual contact, in violation of Article 120, Uniform Code of Military Justice (UCMJ). R. at 294, 382; Entry of Judgment.<sup>2</sup> The military judge sentenced Appellant to be reduced to the grade of E-1, to be confined for four months, and to be discharged from the service with a Bad Conduct Discharge. R. at 468.

The record of trial consists of seven volumes, with five Prosecution Exhibits, one Court Exhibit, one Defense Exhibit, and thirty-four Appellate Exhibits. The transcript is 470 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Maj Grande is currently assigned 28 cases; 21 cases are pending before this Court (17 cases are pending AOE). Six cases have priority over the present case:

1. *United States v. Boggs*, ACM No. 40678 – The record of trial consists of nine Prosecution Exhibits, one Defense Exhibit, and twenty-six Appellate Exhibits; the transcript is 161 pages long. Undersigned counsel has completed her review of the record of trial in this case.
2. *United States v. Hedgepath*, ACM No. 40681– The record of trial consists of one ROT with four volumes, three Prosecution Exhibits, one Court Exhibit, three Defense Exhibits, and five Appellate Exhibits; the transcript is 115 pages long. Undersigned counsel has not yet completed her review of the record of trial in this case.

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<sup>2</sup> Pursuant to the plea agreement, one Specification of sexual assault was withdrawn and dismissed with prejudice. Appellate Ex. XXX; R. at 468-69.

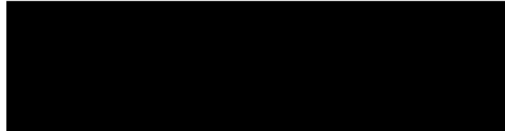
3. *United States v. Rockrich*, ACM No. 40666 – The record of trial consists of two Prosecution Exhibits, one Defense Exhibit, and sixteen Appellate Exhibits; the transcript is 96 pages long. Appellant is currently confined. Undersigned counsel has completed her review of the transcript for this case; but not the entire record.
4. *United States v. Hilson*, ACM No. 24063 – The record of trial consists of one E-ROT with two volumes. It contains two Prosecution Exhibits, one Court Exhibit, eight Defense Exhibits, and four Appellate Exhibits. The transcript is 156 pages long. Undersigned counsel has not yet completed her review of the record in this case.
5. *United States v. Fundis*, ACM No. 40689- The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Undersigned counsel has not yet completed her review of the record in this case.
6. *United States v. Reese*, ACM No. 24069 – The record of trial consists of one E-ROT containing two volumes, with twelve Prosecution Exhibits, four Court Exhibits, fourteen Defense Exhibits, and fifty-six Appellate Exhibits. The transcript is 1310 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose

a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,

A large black rectangular redaction box covering the signature of the appellant.

JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel

A large black rectangular redaction box covering the contact information of the appellant.

**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 Air Force Government Trial and Appellate Operations Division on 27 May 2025.

[REDACTED]

JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel

[REDACTED]

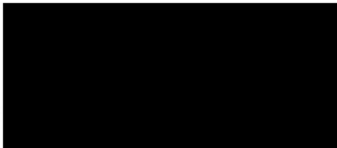

**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 2
Technical Sergeant (E-6)	)	
<b>CHRISTIAN M. CASTILLO,</b>	)	No. ACM 40705
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	30 May 2025

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

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

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

  
JOCELYN Q. WRIGHT, Maj, USAF  
Appellate Government Counsel  


**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 30 May 2025.



JOCELYN Q. WRIGHT, Maj, USAF  
Appellate Government Counsel



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

UNITED STATES, <i>Appellee,</i>	)	<b>APPELLANT’S MOTION</b>
	)	<b>FOR ENLARGEMENT</b>
	)	<b>OF TIME (SIXTH)</b>
v.	)	
	)	Before Panel No. 2
Technical Sergeant (E-6)	)	
<b>CHRISTIAN M. CASTILLO,</b>	)	No. ACM 40705
United States Air Force,	)	
<i>Appellant.</i>	)	20 June 2025

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

Pursuant to Rule 23.3(m)(1) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **1 August 2025**.

Appellant’s case was docketed with this Court on 4 November 2024. From the date of docketing to the present date, 228 days have elapsed. On the date requested, 270 days will have elapsed since docketing.

On 9 November 2022 and on 21 February 2023, Appellant was tried by a General Court-Martial composed of a military judge at Scott Air Force Base, Illinois. R. at 1, 247, 292. Appellant was convicted consistent with his pleas and pursuant to a plea agreement of Charge with one Specification of abusive sexual contact, in violation of Article 120, Uniform Code of Military Justice (UCMJ). R. at 294, 382; Entry of Judgment.<sup>1</sup> The military judge sentenced Appellant to be reduced to the grade of E-1, to be confined for four months, and to be discharged from the service with a Bad Conduct Discharge. R. at 468.

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<sup>1</sup> Pursuant to the plea agreement, one Specification of sexual assault was withdrawn and dismissed with prejudice. Appellate Ex. XXX; R. at 468-69.

The record of trial consists of seven volumes, with five Prosecution Exhibits, one Court Exhibit, one Defense Exhibit, and thirty-four Appellate Exhibits. The transcript is 470 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Maj Grande is currently assigned 30 cases; 26 cases are pending before this Court (22 cases are pending AOE). Five cases have priority over the present case:

1. *United States v. Hedgepeth*, ACM No. 40681– The record of trial consists of one ROT with four volumes, three Prosecution Exhibits, one Court Exhibit, three Defense Exhibits, and five Appellate Exhibits; the transcript is 115 pages long. Undersigned counsel is currently drafting this brief, due no later than 14 July 2025. Undersigned counsel does not anticipate asking for another EOT in this case.
2. *United States v. Rockrich*, ACM No. 40666 – The record of trial consists of two Prosecution Exhibits, one Defense Exhibit, and sixteen Appellate Exhibits; the transcript is 96 pages long. Undersigned counsel has completed her review of the record in this case.
3. *United States v. Hilson*, ACM No. 24063 – The record of trial consists of one E-ROT with two volumes. It contains two Prosecution Exhibits, one Court Exhibit, eight Defense Exhibits, and four Appellate Exhibits. The transcript is 156 pages long. Undersigned counsel has completed her review of the record in this case.
4. *United States v. Fundis*, ACM No. 40689- The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Undersigned counsel

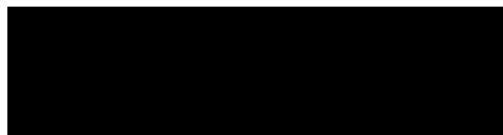
has not yet completed her review of the record in this case. Civilian counsel assigned to this case will draft the AOE.

5. *United States v. Reese*, ACM No. 24069 – The record of trial consists of one E-ROT containing two volumes, with twelve Prosecution Exhibits, four Court Exhibits, fourteen Defense Exhibits, and fifty-six Appellate Exhibits. The transcript is 1310 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,



JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel



**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 Air Force Government Trial and Appellate Operations Division on 20 June 2025.

[REDACTED]

JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel

[REDACTED]

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

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
Technical Sergeant (E-6)	)	Before Panel No. 2
<b>CHRISTIAN M. CASTILLO,</b>	)	No. ACM 40705
United States Air Force,	)	
<i>Appellant.</i>	)	24 June 2025

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

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

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

[Redacted Signature Block]

JOCELYN Q. WRIGHT, Maj, USAF  
Appellate Government Counsel

[Redacted Address Block]

**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 June 2025.



JOCELYN Q. WRIGHT, Maj, USAF  
Appellate Government Counsel



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

UNITED STATES	)	No. ACM 40705
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Christian M. CASTILLO	)	
Technical Sergeant (E-6)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 2</b>

On 23 July 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Seventh), 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, prior filings in this case, case law, and this court's Rules of Practice and Procedure.

Accordingly, it is by the court on this 25th day of July, 2025,

**ORDERED:**

Appellant's Motion for Enlargement of Time (Seventh) is **GRANTED**. Appellant shall file any assignments of error not later than **31 August 2025**.

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



FOR THE COURT



OLGA STANFORD, Capt, USAF  
Chief Commissioner



The record of trial consists of seven volumes, with five Prosecution Exhibits, one Court Exhibit, one Defense Exhibit, and thirty-four Appellate Exhibits. The transcript is 470 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Maj Grande is currently assigned 31 cases; 24 cases are pending before this Court (19 cases are pending AOE). Three cases have priority over the present case:

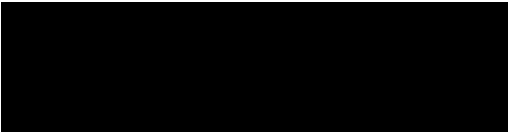
1. *United States v. Hilson*, ACM No. 24063 – The record of trial consists of one E-ROT with two volumes. It contains two Prosecution Exhibits, one Court Exhibit, eight Defense Exhibits, and four Appellate Exhibits. The transcript is 156 pages long. Undersigned counsel is currently drafting this 1-issue AOE.
2. *United States v. Fundis*, ACM No. 40689- The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Undersigned counsel has not yet completed her review of the record in this case. Civilian counsel assigned to this case will draft the AOE.
3. *United States v. Reese*, ACM No. 24069 – The record of trial consists of one E-ROT containing two volumes, with twelve Prosecution Exhibits, four Court Exhibits, fourteen Defense Exhibits, and fifty-six Appellate Exhibits. The transcript is 1310 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of the record for this case.

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

Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,



JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel



**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 Air Force Government Trial and Appellate Operations Division on 23 July 2025.

[REDACTED]

JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel

[REDACTED]

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

<b>UNITED STATES,</b>	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
Technical Sergeant (E-6)	)	Before Panel No. 2
<b>CHRISTIAN M. CASTILLO,</b>	)	No. ACM 40705
United States Air Force,	)	
<i>Appellant.</i>	)	24 July 2025

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

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

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

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



KATE E. LEE, Maj, USAF  
Appellate Government Counsel



**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 July 2025.



KATE E. LEE, Maj, USAF  
Appellate Government Counsel





The record of trial consists of seven volumes, with five Prosecution Exhibits, one Court Exhibit, one Defense Exhibit, and thirty-four Appellate Exhibits. The transcript is 470 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of the record for this case. Undersigned counsel anticipates requesting one additional EOT for this case, given the below cases with priority.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Maj Grande is currently assigned 29 cases; 25 cases are pending before this Court (18 cases are pending AOE). Four cases have priority over the present case:

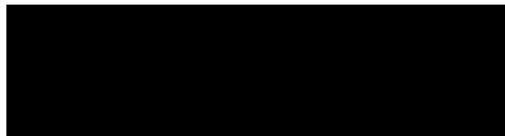
1. *United States v. Gale*, Misc. Dkt. No. 2025-01/ USCA Dkt. No 25-0237/AF- Undersigned counsel is working with civilian counsel to draft a Supplement to the Petition for Grant of Review in this Art. 62, UCMJ case, which is due to the Court of Appeals for the Armed Forces by 2 September 2025.
2. *United States v. Hedgepeth*, ACM No. 40681- The reply brief for this case is currently undergoing leadership review and will be filed with this Court by 19 August 2025.
3. *United States v. Fundis*, ACM No. 40689- The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Undersigned counsel has completed her review of the record in this case. Civilian counsel assigned to this case will draft the AOE.
4. *United States v. Reese*, ACM No. 24069 – The record of trial consists of one E-ROT containing two volumes, with twelve Prosecution Exhibits, four Court Exhibits, fourteen Defense Exhibits, and fifty-six Appellate Exhibits. The transcript is 1310 pages long. Appellant is not currently confined. Undersigned counsel is drafting the

AOE in this case and, if Appellant's Motion for EOT 8 is granted, will file the AOE no later than 6 September 2025.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,

A large black rectangular redaction box covering the signature of the undersigned counsel.

JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel

A large black rectangular redaction box covering the contact information of the undersigned counsel.

**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 Air Force Government Trial and Appellate Operations Division on 18 August 2025.

[REDACTED]

JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel

[REDACTED]

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

<b>UNITED STATES,</b>	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
Technical Sergeant (E-6)	)	Before Panel No. 2
<b>CHRISTIAN M. CASTILLO,</b>	)	No. ACM 40705
United States Air Force,	)	
<i>Appellant.</i>	)	19 August 2025
	)	

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

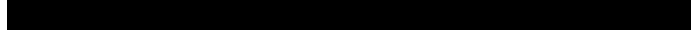
Pursuant to Rule 23.2 of this Court’s Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant’s Motion for Enlargement of Time to file an Assignment of Error in this case.

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

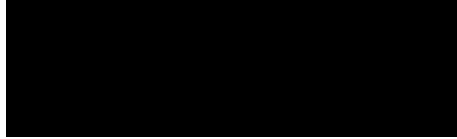


VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel



**CERTIFICATE OF FILING AND SERVICE**

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



VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel





Appellant to be reduced to the grade of E-1, to be confined for four months, and to be discharged from the service with a Bad Conduct Discharge. R. at 468.

During the proceedings, the parties reviewed and discussed Appellate Exhibits VIII and IX, which are the Defense's MRE 412 Motion and the Government's Response, respectively. R. at 38. The parties then entered a closed session to discuss the Defense's Motion. R. at 40.

### Law

Pursuant to Rule for Court Martial (R.C.M.) 1113(b)(3)(B)(i), "materials presented or reviewed at trial and sealed . . . may be examined by appellate counsel upon a colorable showing to the reviewing or appellate authority that examination is reasonably necessary to a proper fulfillment of the appellate counsel's responsibilities[.]"

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

*United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998).

Air Force regulations governing professional duties and conduct of appellate defense counsel impose upon counsel, *inter alia*, a duty to provide "competent representation,"<sup>2</sup> perform "reasonable diligence,"<sup>3</sup> 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."<sup>4</sup> These requirements are

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<sup>2</sup> Air Force Instruction (AFI) 51-110, *Professional Responsibility Program*, Attachment 2: Air Force Rules of Professional Conduct, Rule 1.1 (11 Dec. 2018).

<sup>3</sup> *Id.* at Rule 1.3.

<sup>4</sup> AFI 51-110, Attachment 7: Air Force Standards for Criminal Justice, Standard 4-8.3(b).

consistent with those imposed by the state bar to which counsel belong.<sup>5</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 detailed by the Judge Advocate General shall represent accused servicemembers before this Court. Article 70, UCMJ, 10 U.S.C. § 870.

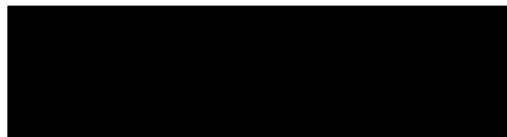
### **Analysis**

The parties “presented” and “reviewed” the sealed material at trial. It is reasonably necessary for Appellant’s counsel to review this sealed exhibit for counsel to competently conduct a professional evaluation of Appellant’s case and to uncover all issues which might afford him relief. Because examination of the material in question is reasonably necessary to the fulfillment of counsel’s Article 70, UCMJ, duties, and because the contents of the Motions were made available to the parties at trial, Appellant has provided the “colorable showing” required by R.C.M. 1113(b)(3)(B)(i) to permit his counsel’s examination of the sealed material and has shown good cause to grant this motion.

The Government consents to both parties viewing the sealed material detailed above.

**WHEREFORE**, Appellant respectfully requests that this Honorable Court grant this consent motion and permit appellate counsel for the Appellant and the Government to examine the aforementioned sealed material contained within the original record of trial.

Respectfully submitted,



JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel



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<sup>5</sup> Undersigned counsel is licensed to practice law in Connecticut.



**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 25 August 2025.

Respectfully submitted,

A large black rectangular redaction box covering the signature of the sender.

JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel

A large black rectangular redaction box covering the contact information of the sender.

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

<b>UNITED STATES</b>	)	<b>No. ACM 40705</b>
<i>Appellee</i>	)	
	)	
<b>v.</b>	)	
	)	<b>ORDER</b>
<b>Christian M. CASTILLO</b>	)	
<b>Technical Sergeant (E-6)</b>	)	
<b>U.S. Air Force</b>	)	
<i>Appellant</i>	)	<b>Panel 2</b>

On 25 August 2025, counsel for Appellant submitted a Consent Motion to Examine Sealed Materials, requesting both parties be allowed to examine Appellate Exhibits VIII and IX, and Transcript pages 41–47, which were reviewed by trial counsel and trial defense counsel at Appellant’s court-martial.

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 the 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.

Accordingly, it is by the court on this 28th day of August, 2025,

**ORDERED:**

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

Appellate defense counsel and appellate government counsel may view **Appellate Exhibits VIII and IX**, and **Transcript pages 41–47**, 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.

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>BRIEF ON BEHALF OF</b>
<i>Appellee,</i>	)	<b>APPELLANT</b>
	)	
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40705
<b>CHRISTIAN M. CASTILLO,</b>	)	
United States Air Force,	)	30 September 2025
<i>Appellant.</i>	)	

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

**Assignments of Error**

- I. Technical Sergeant Castillo’s plea to abusive sexual contact was not provident because the military judge a) failed to resolve factual inconsistencies raised by the record that showed Technical Sergeant Castillo may have believed C.C. was awake and that C.C. may actually have been awake, and b) failed to explain the defense of mistake of fact as to whether C.C. was awake.**
- II. The portion of the sentence providing for a bad-conduct discharge is inappropriately severe.**
- III. The Government’s 622-day post-trial delay entitles Technical Sergeant Castillo to appropriate relief.**

**Statement of the Case**

On 9 November 2022 and 21 February 2023, Technical Sergeant (TSgt) Christian M. Castillo, Appellant, was tried by a General Court-Martial composed of a military judge alone at Scott Air Force Base, Illinois. R. at 1, 247, 292. TSgt Castillo pleaded guilty and was convicted of one specification of abusive sexual contact, in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920.

DD Form 458, *Charge Sheet*, 26 April 2022; Entry of Judgment, 27 April 2023; Appellate Ex. XXX; R. at 294, 382, 468-69.<sup>1</sup> The military judge sentenced TSgt Castillo to reduction to the grade of E-1, confinement for four months, and a bad-conduct discharge. R. at 468.

The Convening Authority suspended the reduction to E-1 for six months “or until expiration of [his] term of service, whichever is sooner from the entry of judgment,” and deferred the reduction in grade until the entry of judgment. Convening Authority Decision on Action (CADA), 5 April 2023. The Convening Authority also waived all automatic forfeitures for a period not to exceed six months for the benefit of TSgt Castillo’s wife and their dependent child.<sup>2</sup> *Id.*; Appellate Ex. XXX at 1. The record of trial was docketed with this Court on 4 November 2024. AFCCA Court Docket, <https://afcca.law.af.mil/docket.html> (last visited 23 September 2025).

### **Statement of Facts**

Pursuant to his guilty plea, TSgt Castillo was convicted of touching his wife’s (C.C.’s) breasts while she was asleep on one occasion between November 2017 and April 2018. *Charge Sheet*; Appellate Ex. VIII. During this time, C.C. was prescribed sleeping and pain medication that caused her to “feel numb” and sleep heavily, and to engage in conversations that she would not later remember. Appellate Ex. VIII;

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<sup>1</sup> Pursuant to the plea agreement, one specification of sexual assault was withdrawn and dismissed with prejudice. Appellate Ex. XXX at 1.

<sup>2</sup> The automatic forfeitures were waived for a period of “[six] months, or release from confinement, or expiration of term of service, whichever is sooner, with the waiver commencing on 7 March 2023.” CADA. This was in accordance with the plea agreement. Appellate Ex. XXX.

Pros. Ex. 1 at 2.

More than three years later, in September 2021, TSgt Castillo was deployed to Kuwait when his wife confronted him via a messaging application about images she found on his computer at home and perceived wrongs during their marriage. Pros. Ex. 1, Attachment 2. In an attempt to resolve these marital issues, TSgt Castillo described sexual interactions with C.C. while they were staying in a temporary living facility on Scott Air Force Base and at Mountain Home Air Force Base. *Id.* TSgt Castillo described that during these interactions, C.C. was not merely being stationary but was “bridging her hips,” helping TSgt Castillo take off his clothes, and wrapping her legs around him during these sexual encounters. *Id.*

After these conversations with C.C., TSgt Castillo began having suicidal ideations and was re-deployed from Kuwait to receive medical care, only to be confronted by C.C. over the phone as she worked in concert with law enforcement. *Id.*; Pros. Ex. 1, Attachment 1. This phone confrontation occurred while TSgt Castillo was in Germany for mental health treatment. *Id.* TSgt Castillo admitted to C.C. that he had touched her when she was asleep while in a hotel. *Id.*, Pros. Ex. 1 at 14-16. He also described that during these interactions, C.C. was moaning, wrapping her legs around him, and orgasmed. Pros. Ex. 1 at 14-15. During the phone call, TSgt Castillo stated, “I thought you knew all that, I thought because you usually respond, like you would push me off, I thought that you were aware of all of it . . . You seemed alert.” Pros. Ex. 1, Attachment 1.

In the text messages, C.C. told TSgt Castillo she caught him “fondling [her]

breasts while [she] was sleeping” on one occasion.<sup>3</sup> Pros. Ex. 1 at 17. During the *Care* inquiry, TSgt Castillo told the military judge that during the charged incident, TSgt Castillo “felt [C.C.] move and she seemed to reach a state of partial wakefulness.” R. at 331. The military judge did not follow up on this statement, nor did he ask questions to determine whether TSgt Castillo was still touching C.C. at this time, or how C.C. reacted. *Id.*

*C.C. declined to participate in the court-martial and then requested leniency in sentencing.*

On 12 December 2022, the day before trial was originally scheduled to commence, C.C.’s victim’s counsel informed trial defense counsel that C.C. was no longer willing to provide sworn testimony against TSgt Castillo. Appellate Ex. XXIII at 2. TSgt Castillo then withdrew from the original plea agreement he had entered.<sup>4</sup> The military judge granted an unopposed defense motion to continue. *Id.* Ultimately, though, on 8 February 2023, TSgt Castillo signed the plea agreement that resulted in the conviction at issue. Appellate Ex. XXX. The agreed-upon sentence in the plea agreement was a range of confinement between two and ten months, a bad-conduct discharge, and suspension or deferment of any reduction in rank and forfeitures for the benefit of TSgt Castillo’s family (C.C. and their son). *Id.* at 2.

TSgt Castillo remained married to C.C. throughout the court-martial and

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<sup>3</sup> The text messages reference this incident as occurring at “Annie’s house.” It is unclear from the record if this is a home on Mountain Home Air Force Base. Pros. Ex. 1 at 17.

<sup>4</sup> There is nothing in the record discussing the terms of this original plea agreement, which is presumably not the same plea agreement into which TSgt Castillo ultimately entered.

financially supported his family. Court Ex. A. C.C. did not testify against TSgt Castillo, and she submitted a victim impact statement stating her belief in “second chances, in rehabilitation and hope” for her family and for TSgt Castillo. *Id.* She requested that TSgt Castillo be sentenced to no more than two months of confinement, though that request was disregarded by the military judge and by the Convening Authority. CADA; R. at 468.

*TSgt Castillo sought treatment for his mental health struggles.*

TSgt Castillo underwent extensive mental health treatment in the years leading up to his court-martial (even before his admissions to C.C.). Pros. Ex. 1.; Def. Ex. A. Included in that treatment was community-based sex offender treatment. Def. Ex. A. The confessions he made to C.C. were directly a result of his participation in a rehabilitation program and a desire to make amends. *Id.* He first began seeking mental health treatment at the age of eighteen, as a result of his difficult childhood and enduring an abusive father. *Id.*

Prior to his court-martial, TSgt Castillo underwent a mental responsibility inquiry pursuant to Rule for Courts-Martial (RCM) 706. Appellate Ex. XIX. The RCM 706 officer determined that TSgt Castillo was “aware at the time of the nature of his actions” and was deemed “competent to stand trial.” R. at 16. Nonetheless, he was diagnosed with adjustment disorder, borderline personality disorder, and “other specified trauma and stress related disorder.” Appellate Ex. XIX at 2. Upon his return from Kuwait, TSgt Castillo made two known attempts to end his own life. Pros. Ex. 1; Court Ex. A; Def. Ex. A.

## Argument

- I. Technical Sergeant Castillo's guilty plea to abusive sexual contact on a sleeping person was not provident because the military judge a) failed to resolve factual inconsistencies raised by the record that showed Technical Sergeant Castillo may have believed C.C. was awake and that C.C. may actually have been awake, and b) failed to explain the defense of mistake of fact as to whether C.C. was awake.

### Standard of Review

This Court reviews a military judge's decision to accept a guilty plea for an abuse of discretion; however, this Court reviews de novo the military judge's legal conclusion that an appellant's plea was provident. *United States v. Harris*, 61 M.J. 391, 398 (C.A.A.F. 2005); *United States v. Eberle*, 44 M.J. 374, 375 (C.A.A.F. 1996). A military judge abuses his discretion when there is a "substantial basis" in law and fact "for questioning the guilty plea." *United States v. Prater*, 32 M.J. 433, 436 (C.M.A.

1991). A military judge's decision to accept a guilty plea will be reversed if there is "a substantial conflict between the plea and the accused's statements or other evidence of record." *United States v. Shaw*, 64 M.J. 460, 462 (C.A.A.F. 2007).

#### Law and Analysis









**II. The portion of the sentence providing for a bad-conduct discharge is inappropriately severe.**

Standard of Review

This Court reviews sentence appropriateness de novo. *United States v. Lane*, 64 M.J. 1, 2 (C.A.A.F. 2006). This Court has the statutory duty to “independently determine, in every case within [its] limited Article 66, UCMJ, jurisdiction, the sentence appropriateness of each case [it] affirm[s].” *United States v. Baier*, 60 M.J. 382, 384–85 (C.A.A.F. 2005) (alterations in original).

Law and Analysis

In the event this Court finds TSgt Castillo’s pleas provident, the bad-conduct

portion of the sentence is not appropriate given TSgt Castillo's service record, his remorse, the nature of the offense, and the wishes of the victim. It is, therefore, not a sentence that is "fair and just." *Baier*, 60 M.J. at 383.

This case—in which the finding of guilty was for an offense before 2019—is subject to this Court's sentence appropriateness review authority under the version of Article 66(c), UCMJ, found in *Manual for Courts-Martial*, United States (2016 ed.), 10 U.S.C. § 866(c) (2018). Under that standard, this Court "may affirm only . . . the sentence or such part or amount of the sentence, as it finds correct in law and fact and determines, on the basis of the entire record, should be approved." *Id.* In considering TSgt Castillo, the nature and seriousness of his offense, his record of service, and "all matters contained in the record of trial," *United States v. Anderson*, 67 M.J. 703, 705 (A.F. Ct. Crim. App. 2009), this Court must ensure that TSgt Castillo gets "no more than the deserved punishment," *United States v. Healy*, 26 M.J. 394, 395–96 (C.M.A. 1988). A bad-conduct discharge is excessive in this case.

Everything in TSgt Castillo's case — his statements to C.C., the investigation, the charging, his guilty plea, and his rehabilitation— stems from TSgt Castillo's substantial and long-standing remorse for his conduct. The Government's awareness of this crime came from TSgt Castillo's own admission to his wife. Pros. Ex. 1 at 2–3. He felt he had wronged her and, as part of his effort to seek rehabilitation, he confessed to her and accepted full responsibility. But for TSgt Castillo's desire to heal himself and his marriage, neither his wife nor the Government would have been aware of the misconduct. TSgt Castillo has been apologizing for the wrong against

his wife since September of 2021. *Id.* at 2–3; Court Ex. A. As his wife noted, TSgt Castillo spent years “punishing himself for his decisions.” C.C.’s Submission of Matters, ROT, Vol. 5.

Prior to his court-martial, TSgt Castillo had an unblemished nine-year Air Force record, Pros. Exs. 2–3, which this Court must consider when determining the appropriateness of his sentence. <sup>6</sup> *Anderson*, 67 M.J. at 705. He faithfully served his country in numerous capacities, including a combat tour in Iraq and overseas service in Kuwait. Pros. Ex. 2. As an aeromedical evacuation technician, he evacuated hundreds of patients to higher levels of care. *Id.* at 13 (“facilitat’d xfer/218 pts to higher level of care). He was credited with saving a patient’s life, assisting in numerous births, and recovering personnel during his volunteer work as a member of a search and rescue team. *Id.* at 1 (“pt’s life saved; 18 births; 3 prsnl recovered”). TSgt Castillo’s on-the-page accomplishments were the genuine article and backed by his conduct, impressing his direct supervisor through TSgt Castillo’s embodiment of the core value of service before self. Letter from MSgt B.A., Post-Trial Submission at 8, ROT, Vol. 5.

By removing the bad-conduct discharge, this Court can ultimately fulfill the expressed wishes of the victim. C.C. “believe[s] in second chances, in rehabilitation, and in hope.” Court Ex. A. She requested that the Convening Authority reduce TSgt Castillo’s punishment to the fullest extent possible. *Id.* She declined to continue participating in his court-martial and wanted her family to remain supported

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<sup>6</sup> His only piece of paperwork is a Letter of Counseling when he was late to sign in to a virtual meeting in 2020. Pros. Ex. 4.

financially as her husband transitioned out of the Air Force. *Id.*; Appellate Ex. XXIII at 2. She wanted him to be able to support his family and be a father and role model to his son. Court. Ex. A. While TSgt Castillo's offense was serious, in the context of his marriage, where he and his wife would often engage in consensual sex while she was pretending to be asleep, this non-penetrative, one-time touching of C.C.'s breasts that occurred more than five years before the trial, does not warrant a bad-conduct discharge. Appellate Ex. VIII. This is supported by C.C. declining to participate in the court-martial and requesting leniency for her husband.

TSgt Castillo's primary goal has been to repair his marriage and ensure stability for his family. In the time between the offense and the court-martial, he underwent years of mental health treatment to identify the issues that led to the misconduct and rehabilitate. Pros. Ex. 1 at 3; R. at 416–19 (testimony of TSgt Castillo's first sergeant about TSgt Castillo's mental health treatment). Ultimately, through his treatment, TSgt Castillo was diagnosed with adjustment disorder, borderline personality disorder, and "other specified trauma and stress related disorder." Appellate Ex. XIX at 2. Upon his return from Kuwait, TSgt Castillo made two known attempts on his own life. Pros. Ex. 1; Court Ex. A; Def. Ex. A. While his mental health struggles do not excuse the conduct, they place into context the state of mind of TSgt Castillo both during and after this event.

A bad-conduct discharge adjudged by a General Court-Martial is a statutory bar to most veterans' benefits, an outcome that is counter to C.C.'s expressed wishes and inappropriate for the conduct in this case. 38 U.S.C. § 5303(a). As this Court has

recognized, a bad-conduct discharge imposes “a long-term stigma” on its recipient. *United States v. Parra*, No. ACM S32653, 2021 CCA LEXIS 653, at \*38 (A.F. Ct. Crim. App. Dec. 2, 2021). Removing the bad-conduct discharge ensures that TSgt Castillo can continue to provide for his family and support the victim in this case (his wife)—a desire that she expressed to the trial court and the Convening Authority. Court Ex. A; C.C.’s Submission of Matters, ROT, Vol. 5. Removing the bad-conduct discharge fulfills this Court’s mandate to approve an appropriate sentence for TSgt Castillo based on the “individualized consideration of [this] particular accused on the basis of the nature and seriousness of the offense and the character of [this] offender.” *Snelling*, 14 M.J. at 268.

This Honorable Court should set aside the bad-conduct discharge.

### **III. The Government’s 622-day post-trial delay entitles Technical Sergeant Castillo to appropriate relief.**

#### *Post-Trial Timeline*

TSgt Castillo’s sentence set him on course for an automatic appeal to this Court. *See* 10 U.S.C. § 866(b)(3). Yet 622 days—more than twenty months—passed between sentencing and when TSgt Castillo’s automatic appeal was docketed with this Court. TSgt Castillo and C.C. each submitted timely matters, ROT, Vol. 5, and by 5 April 2023 (forty-three days after the sentencing date), the Convening Authority signed the CADA.

From there, the post-trial processing in TSgt Castillo’s case proceeded listlessly and then ground to a halt when the legal office failed to keep track of the ROT. The court reporter did not begin transcribing the findings proceedings until 24 October

2023, 245 days after the hearing. Reporter’s Chronology at 16, ROT, Vol. 5. The proofed pages were sent to trial counsel sometime between 1 and 8 November 2023. *Id.* at 17. Trial Counsel sent edits to the transcript back to the court reporter on 21 November 2023. *Id.*

On 27 November 2023, 279 days after trial, the reporter certified the transcript and sent all documents to the legal office. *Id.* at 18; *Moreno* Chronology, ROT, Vol. 5. From 27 November 2023 to 15 December 2023, the only documentation of activity for this case is, “\*Note: [Non-Commissioned Officer in Charge (NCOIC)] of MJ was on parental leave from 20 Sep 23 through 15 Dec 23. Upon return, no progress made to the ROT.” *Moreno* Chronology. From 15 December 2023 through 2 January 2024, the legal office “created [TSgt Castillo’s] copy of ROT and mailed” it. *Id.* On 18 January 2024, the ROT was “returned as undeliverable.”<sup>7</sup> *Id.* The legal office next spent seventeen days “creat[ing] copies of [the] ROT.” *Id.*

On 5 February 2024, the NCOIC of military justice was informed by an unknown individual or entity “ROTS brought to [the Numbered Air Force (NAF)] or picked up.” *Id.* Sometime between 16 September and 1 October 2024, the legal office came to the realization that the ROTs for TSgt Castillo’s case and several other cases were not mailed. *Id.* On 2 October 2024, 589 days after trial, the legal office conducted a “ROT blocking review,” and on 3 October 2024, it brought the ROT copies to the NAF. *Id.* The case was docketed with this Court thirty-two days later. AFCCA Court Docket, <https://afca.law.af.mil/docket.html> (last visited 30 September 2025).

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<sup>7</sup> It is unclear where the returned ROT was originally headed, as this is not detailed in the one-page chronology.

## Standard of Review

This Court reviews de novo whether an appellant's due process rights are violated because of post-trial delay. *United States v. Livak*, 80 M.J. 631, 633 (A.F. Ct. Crim. App. 2020). In the absence of a due process violation, this Court considers whether relief for excessive post-trial delay is warranted consistent with this Court's authority under Article 66(d), UCMJ, 10 U.S.C. § 866(d). *Id.*

## Law and Analysis

- A. The Government violated Technical Sergeant Castillo's due process rights when it exceeded the *Livak* timeline by 400 percent because it failed to diligently transcribe the case and lost track of the ROT for nearly a year.

TSgt Castillo's case is evidence of the type of "institutional neglect" and "gross indifference to post-trial processing" that this Court expressed concern over in *United States v. Valentin-Andino*, No. ACM 40185 (f rev), 2024 CCA LEXIS 223, at \*17-18 (A.F. Ct. Crim. App. 7 Jun. 2024). Convicted servicemembers have a due process right to the timely review and appeal of court-martial convictions that is "unique" and "calls for . . . even greater diligence and timeliness than is found in the civilian system." *United States v. Moreno*, 63 M.J. 129, 135 (C.A.A.F. 2006); *Diaz v. JAG of the Navy*, 59 M.J. 34, 39 (C.A.A.F. 2003).

TSgt Castillo's case was wrought with inexplicable delay at each stage in the post-trial process. It took the court reporter 253 days from the date of sentencing until she completed the transcript for a single-day proceeding. Reporter's Chronology at 5, 16, ROT, Vol. 5. Moreover, the Government completely abdicated its responsibility to timely process this case when it 1) made one paralegal out of thousands of members

in the Air Force JAG Corps the single point of failure for eighty-six days, and 2) lost track of the ROT for 240 days “due to misunderstanding or miscommunication.” *Moreno* Chronology, ROT, Vol. 5. The Government’s delay in this case is “so egregious that tolerating it would adversely affect the public’s perception of the fairness and integrity of the military justice system.” *United States v. Toohey*, 63 M.J. 353, 362 (C.A.A.F. 2006). The Government violated TSgt Castillo’s due process rights and he is entitled to sentencing relief.

A presumption of unreasonable post-trial delay triggers the four-factor analysis promulgated in *Barker v. Wingo*, 407 U.S. 514, 530 (1972): 1) the length of the delay; 2) the reasons for the delay; 3) the appellant’s assertion of the right to a timely review and appeal; and 4) prejudice. *Moreno*, 63 M.J. at 135 (citing *Barker*, 407 U.S. at 530). All four factors must be balanced, but no single factor is dispositive. *Id.* at 136. A review of these factors demonstrates a due process violation in TSgt Castillo’s case.

First, the length of the delay—622 days—was egregious and unreasonable. The Government exceeded the *Moreno* threshold, as aggregated by *Livak*, by 472 days.

Second, the reasons for the delay similarly weigh heavily in favor of granting relief. In assessing whether the length of delay is unreasonable, the question becomes: is there anything that could justify the 622 days the Government took to assemble a seven-volume guilty plea case? The answer is no. However, looking at factors that *could* justify a delay as outlined in *United States v. Winfield*, 83 M.J. 662,

666 (A. Ct. Crim. App. 2023), there were no operational exigencies, in-court coverage issues, court reporter availability issues, or unusual resource shortfalls noted. Despite the court reporter's lengthy chronology, the only explanation provided is a normal workload. According to the legal office's chronology, the delay in this case was apparently because one paralegal was on parental leave and then the ROT was simply never sent to the NAF, but this was not realized until 573 days after the sentence date. The Government should be afforded no deference for these "explanations" in delay. It has not explained the reason for the complete lack of urgency and negligence in processing TSgt Castillo's case. *See United States v. Gay*, 74 M.J. 736, 744 (A.F. Ct. Crim. App. 2015), *aff'd*, 75 M.J. 264 (C.A.A.F. 2016) (granting meaningful relief for post-trial delay where the government failed to provide any "good explanation" in the record for delays in processing the appellant's case).

This case is neither lengthy nor complicated. A discretionary administrative delay like this is unjustified and inexcusable and cannot serve to excuse the Government's inability to meet the 150-day threshold, especially considering that it exceeded that threshold by more than four times. *See United States v. Arriaga*, 70 M.J. 51, 57 (C.A.A.F. 2011) (where two deployed captains, a pregnant trial counsel, inexperienced remaining captains in the office, and a heavy caseload did not justify a 243-day delay for the fully-litigated eight-volume ROT). In light of the patently unreasonable length of the delay, this factor resolves in TSgt Castillo's favor. When looking at the duties of the court reporter in this case, this Court has previously found

that a transcription of 1,169 pages was not so oppressively long to justify delays in the post-trial processing. *United States v. Hennessy*, No. ACM 40439, 2024 CCA LEXIS 343, at \*37 (A.F. Ct. Crim. App. Aug. 20, 2024), *vacated on other grounds*, No. ACM 40439, 2024 CCA LEXIS 503 (A.F. Ct. Crim. App. Nov. 25, 2024).<sup>8</sup> If a transcript approximately 2.5 times longer than the instant one is not so “oppressively long” as to justify delay, it is even more true in this case. In light of the unreasonable length of the delay and the failures at all levels of the Government in TSgt Castillo’s case, this factor resolves in his favor.

Delays involved in the assembly of the record and forwarding to the appellate court are the least defensible. *See United States v. Dunbar*, 31 M.J. 70, 73 (C.M.A. 1990) (finding delay in the administrative handling and forwarding of the record of trial and related documents to an appellate court is the least defensible of all and worthy of the least patience). This stage of appellate processing involves no discretion or judgment, and unlike other stages of appeal, it involves no analysis of legal or factual issues. *Id.* In its original *Hennessy* opinion, this Court inferred a lack of urgency on behalf of the Government as emblematic of “gross indifference” to the overall post-trial processing of that case. *Hennessy*, 2024 CCA LEXIS 343, at \*37 (quoting *Gay*, 74 M.J. at 744). This Court should similarly conclude that the Government’s lack of urgency demonstrates a gross indifference to the post-trial processing of TSgt Castillo’s case and resolve this factor in favor of TSgt Castillo.

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<sup>8</sup> This Court vacated its original opinion in *United States v. Hennessy* on other grounds and declined to address the issue of excessive post-trial delay in its subsequent opinion. *United States v. Hennessy*, No. ACM 40439, 2024 CCA LEXIS 503, at \*3 (A.F. Ct. Crim. App. 25 Nov. 2024).

The third factor weighs slightly in favor of the Government, as TSgt Castillo did not specifically previously assert his right to a speedy appellate review. However, the “weight against him is slight given that the primary responsibility for speedy processing rests with the Government and those to whom he could complain were the ones responsible for the delay.” *Moreno*, 63 M.J. at 138. TSgt Castillo now asserts his right to a speedy appellate review. This Court has previously held that the first assertion of the right to timely appellate review in a brief to the Court “neither weighs in favor nor against Appellant’s interests.” *United States v. Lampkins*, No. ACM 40135 (f rev), 2023 CCA LEXIS 465, at \*13 (A.F. Ct. Crim. App. Nov. 2, 2023).

Turning to the fourth factor, the Government’s delay in forwarding this case for appeal impacted TSgt Castillo’s ability to participate fully in his appeal, establishing prejudice. Courts have long recognized that prejudice from delay in appellate review may result from oppressive incarceration, particularized anxiety and concern, and impairment of his ability to prepare an appeal. *Moreno*, 63 M.J. at 138–39 (citations omitted). The 588 days the Government took to provide TSgt Castillo a ROT copy delayed his access to appellate defense counsel and the ability to confer with appellate defense counsel, ultimately delaying this filing. Memorandum for Record from Technical Sergeant W.K., dated 3 Oct. 24, ROT, Vol. 5 (noting that an electronic copy of the ROT was e-mailed to TSgt Castillo on 1 October 2024). The benefit of a clear memory closer in time to the trial is gone and cannot be retrieved. *Moreno*, 63 M.J. at 138–39. This directly impacts TSgt Castillo’s ability to assist in his appeal, resolving this factor in his favor.

Even without a specific finding of prejudice, a due process violation may also be found “when, in balancing the other three factors, the delay is so egregious that tolerating it would adversely affect the public’s perception of the fairness and integrity of the military justice system.” *Toohey*, 63 M.J. at 362. That is the case here because, as this Court knows, TSgt Castillo’s case of post-trial delay is not unique. This case demonstrates that dilatory post-trial processing has become an institutional problem. In its original *Hennessy* opinion, this Court reasoned that while the dilatory post-trial processing “demonstrate[d] indifference and neglect with regards to this particular case [,] . . . based on this one case alone, we will not find institutional neglect.” *Hennessy*, 2024 CCA LEXIS 343, at \*40. More recently, in *United States v. Atencio*, this Court expressed concern “about the general lack of urgency demonstrated” in transcribing a court-martial and compiling the record but noted that “we have not found that *delays* in transcribing and assembling the record have become an institutional problem.” *United States v. Atencio*, No. ACM S32783, 2024 CCA LEXIS 543, at \*9-10 (A.F. Ct. Crim. App. Dec. 20, 2024). TSgt Castillo’s case, along with numerous others, show more evidence of a trend towards this “general lack of urgency.” *Id.* at \*9.<sup>9</sup> Where this Court has worried about “the scope of potential institutional neglect within the Air Force” regarding post-trial

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<sup>9</sup> See, e.g., *Hennessy*, 2024 CCA LEXIS 343 (discussed supra); *United States v. Gray*, No. ACM 40648, 2025 CCA LEXIS 122, at \*11-12 (A.F. Ct. Crim. App. 24 Mar. 2025) (identifying a 293-day delay); *United States v. Dawson*, No. ACM 24041, 2025 CCA LEXIS 182, at \*25-28 (A.F. Ct. Crim. App. 28 Apr. 2025) (considering a 496-day delay); *United States v. Floyd*, No. ACM S32784, 2025 CCA LEXIS 31, at \*9 (A.F. Ct. Crim. App. 3 Feb. 2025); *United States v. Ryder*, No. ACM 40605, 2025 CCA LEXIS 283, at \*2 (A.F. Ct. Crim. App. 25 Jun. 2025) (identifying a 369-day delay).

processing, *United States v. Cassaberry-Folks*, No. ACM 40444, 2024 CCA LEXIS 500, at \*43 (A.F. Ct. Crim. App. Nov. 22, 2024), this case lends an answer.

In evaluating whether this delay is egregious, this Court should consider the Government's repeated, unaddressed, and uncorrected lack of institutional vigilance in post-trial processing. This Court should incentivize the Government to change by giving no further allowances to the Government when the Government has repeatedly shown evidence of institutional neglect in post-trial processing that caused significant post-trial delays. *Valentin-Andino*, 2024 CCA LEXIS 223, at \*18; *Cassaberry-Folks*, 2024 CCA LEXIS 500 at \*43.

Moreover, a member of the public would reasonably question the fairness and integrity of the military justice system when seeing the Government's continued, unaddressed failures to meet the demands of post-trial processing for even the simplest of ROTs. Thus, after balancing all the *Barker* factors and considering that “[n]o single factor is required for finding a due process violation and the absence of a given factor will not prevent such a finding,” it is apparent that the Government's post-trial processing delay violated TSgt Castillo's due process rights. *Moreno*, 63 M.J. at 136.

B. Technical Sergeant Castillo is entitled to Article 66(d) relief because the delay in his case is excessive and unreasonable.

TSgt Castillo's is just one case in a string of recent cases showing a trend where the Government consistently struggles to timely and accurately complete post-trial processing.<sup>10</sup> See *Valentin-Andino*, 2024 CCA LEXIS 223, at \*18. This Court is

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<sup>10</sup> See *supra* note 9.

statutorily empowered to “provide appropriate relief if the accused demonstrates . . . excessive delay in the processing of the court-martial after the judgment was entered into the record.” Article 66(d)(2), UCMJ, 10 U.S.C. § 866(d)(2). *Cf. Gay*, 74 M.J. at 224. In *Gay*, this Court identified a list of factors to consider in evaluating whether relief under Article 66, UCMJ, should be granted for post-trial delay. *Gay*, 74 M.J. at 744. These factors include: 1) how long the delay exceeded appellate review standards, 2) the reasons for the delay, 3) whether the government acted with bad faith or gross indifference, 4) evidence of institutional neglect, 5) harm to the appellant or to the institution, 6) whether relief is consistent with the goals of both justice and good order and discipline, and 7) whether the lower court can provide any meaningful relief. *Id.* No single factor is dispositive, and this Court may consider other appropriate factors. *Id.*<sup>11</sup>

Looking at the first and second factors, the delays have exceeded appellate review standards, and there is no explanation provided within the record to show good cause for such delays. These are outlined *supra* and are not re-articulated here. Both resolve in TSgt Castillo’s favor.

As to the third factor, while there is no evidence the Government acted in bad faith, the Government’s dilatory conduct and complete abdication of any responsibility reveals its indifference. The lengthy, yet non-exhaustive, list of cases with delays in post-trial processing should continue to vex this Court. This Court can

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<sup>11</sup> While the CAAF noted that “*Tardif* and its progeny have been superseded by Article 66(d)(2), the factors in *Gay* are still informative as this Court determines whether relief for post-trial delay is warranted in TSgt Castillo’s case. *United States v. Valentin-Andino*, 85 M.J. 361 (C.A.A.F. 2025).

and should provide that incentive in this case, wherein the interests of justice and “appropriateness” weigh in favor of granting TSgt Castillo relief.

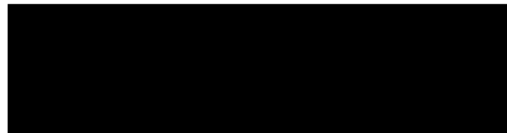
Looking at the fourth factor, this Court has evidence of institutional neglect in post-trial processing. Put plainly, in addition to the lengthy unexplained delay in transcription in TSgt Castillo’s case, it is institutional neglect that the Government was woefully dilatory in processing the record in this case, even losing track of it for nearly a year. *Moreno* Chronology. While this Court’s recent decisions have noted that there were no other ROTs that suggested transcription completion delays have become an institutional problem, *United States v. Atencio*, 2024 CCA LEXIS 543, at \*9-10, transcription delays are part and parcel with the Government’s general institutional neglect toward post-trial processing. Even in *Atencio*, this Court found “some evidence of a lack of urgency or indifference” with post-trial processing. *Atencio*, 2024 CCA LEXIS 543, at \*6. The delay in TSgt Castillo’s case is far more egregious. Moreover, the cases cited by this Court in *Valentin-Andino*, show the Government’s institutional neglect toward *post-trial processing*, which encompasses all aspects of assembling a complete record, including transcription, audio, exhibits, convening orders, and charge sheets. This factor resolves in TSgt Castillo’s favor.

As to the remaining factors, they also resolve in TSgt Castillo’s favor. As outlined *supra*, allowing these delays to persist unchecked harms the military justice system and the Air Force as an institution. The Government is not “worthy” of this Court’s continued “patience” to its neglect. *Dunbar*, 31 M.J. at 73. To the extent providing relief to TSgt Castillo incentivizes the Government to do better, it is

consistent with the goals of both justice and good order and discipline. This Court can still provide “meaningful relief” to TSgt Castillo despite the passage of time, because he was adjudged a bad-conduct discharge and reduction in rank. *Gay*, 74 M.J. at 744. In sum, while none of these factors are dispositive, the totality of the circumstances demonstrates excessive delay warranting appropriate relief. Article 66(d)(2), UCMJ.

This Court should set aside TSgt Castillo’s bad-conduct discharge.

Respectfully submitted,

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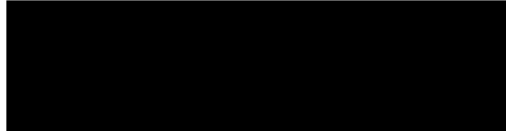
JORDAN L. GRANDE, Maj, USAF  
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**CERTIFICATE OF FILING AND SERVICE**

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 30 September 2025.

Respectfully submitted,

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

<b>UNITED STATES</b>	)	<b>MOTION TO FILE UNDER SEAL</b>
<i>Appellee</i>	)	
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40705
<b>CHRISTIAN M. CASTILLO</b>	)	
United States Air Force	)	30 September 2025
<i>Appellant</i>	)	

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

Pursuant to Rules 13.2(b), 17.2(b), and 23.3(o) of this Honorable Court’s Rules of Practice and Procedure, Appellant, by and through counsel, moves to file under seal the following portions of the Brief on Behalf of Appellant: the additional background and portions of the law and analysis sections for Assignment of Error I found on pages 6-13. These portions address one sealed appellate exhibit —Appellate Ex. VIII and its attachments.

The above referenced portions will be delivered in hard copy to the Court, the Government Trial and Appellate Operations Division, and the Military Justice Law and Policy Division. The unsealed filing, redacted to identify which portions have been filed under seal in accordance with Rule 17.2(b), is being filed separately via email on 30 September 2025.

**WHEREFORE**, Appellant respectfully requests that this Honorable Court grant this motion to file under seal.

Respectfully submitted,

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JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel

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**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Appellate Government Division on 30 September 2025.



JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel



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

<b>UNITED STATES,</b>	)	
<i>Appellee,</i>	)	<b>UNITED STATES' ANSWER TO</b>
	)	<b>ASSIGNMENTS OF ERROR</b>
v.	)	
	)	
	)	Before Panel No. 2
Technical Sergeant (E-6)	)	
<b>CHRISTIAN M. CASTILLO</b>	)	No. ACM 40705
United States Air Force,	)	
<i>Appellant.</i>	)	30 October 2025

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

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

<b>UNITED STATES,</b>	)	ANSWER TO ASSIGNMENTS OF
<i>Appellee,</i>	)	ERROR
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40705
<b>CHRISTIAN M. CASTILLO</b>	)	
United States Air Force	)	30 October 2025
<i>Appellant.</i>	)	

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

**ISSUES PRESENTED**

**I.**

**II.**

**WHETHER THE PORTION OF THE SENTENCE  
PROVIDING FOR A BAD-CONDUCT DISCHARGE IS  
INAPPROPRIATELY SEVERE.**

**III.**

**WHETHER THE GOVERNMENT'S 622-DAY POST-TRIAL  
DELAY ENTITLES TECHNICAL SERGEANT CASTILLO  
TO APPROPRIATE RELIEF.**

**STATEMENT OF CASE**

The United States generally agrees with Appellant's statement of the case.

## **STATEMENT OF FACTS**

### *Plea Agreement*

TSgt Christian Castillo knowingly and voluntarily pled guilty to one specification of abusive sexual contact of his wife, C.C., on one occasion between November 2017 and April 2018. (Charge Sheet; App. Ex. XXX.) Appellant further stated on the record that he was waiving all waivable motions for findings, however reserved the right to argue a motion regarding permission to argue sex-offender registration at sentencing. (R. at 278-279.) In exchange for his guilty plea, the government agreed to drop one specification of sexual assault on diverse occasions between on or about 1-18 May 2019 by penetrating C.C.'s vulva with his penis while he knew or reasonably should have known that she was asleep. (Id.) The government also agreed to except the words "on divers occasions" from the specification for which Appellant pled guilty. (Id.) Appellant and government agreed upon a sentencing range of 2-10 months of confinement and a Bad Conduct Discharge (BCD). (App. Ex. XXX.) The Convening Authority agreed to suspend, defer, or waive any adjudged forfeitures and reduction in rank for the benefit of C.C. and Appellant's son. (Id.) Appellant agreed to enter into a reasonable stipulation of fact regarding the specification to which he pled guilty. (Id., Pros. Ex. 1.)

### *Pretrial and Stipulation of Facts*

Appellant has been on active duty service since 27 May 2014 and married C.C. in February 2016. (Id.) The two lived as husband and wife at or near Mountain Home Air Force Base, Idaho during the charged time frame of November 2017 until April 2018. (Id.) C.C. is a veteran of the United States Air Force and was honorable discharged in 2018. (Id.) Appellant

was aware C.C. had a history of sexual assault, including an instance where she was sexually assaulted in her sleep, and was aware C.C. feared being sexually assaulted in her sleep. (Id.)

During November 2017 to April 2018, C.C. was prescribed and took sleeping medication. (Id.) C.C. also was prescribed and took a muscle relaxer following surgery during the same time frame. (Id.) These medications caused C.C. to feel numb and to sleep very heavily throughout the night. (Id.) The sleeping medication was known for affecting memory and did affect C.C.'s memory on one occasion where C.C. did not remember a conversation she had after taking the sleeping medication. (R. at 142, 229.) Appellant was aware that C.C. was taking these medications and was aware of the medications' effects on C.C. (Pros. Ex. 1.)

One night between November 2017 and April 2018, Appellant reached across the bed and fondled C.C.'s breast with his hand, under her clothes. (Id.; R. at 327.) Appellant fondled C.C.'s breast with his hand for approximately five minutes to gratify his sexual desire. (Id.; R. at 327.) Appellant became aroused by touching C.C.'s breasts while knowing she was asleep. (Pros. Ex.

1). Specific to the offense for which Appellant pled guilty:

[C.C.] woke up to TSgt Castillo touching her breasts with his hand. She was still in a state of drowsiness, likely due to the medication, and quickly fell back asleep without saying anything to TSgt Castillo. TSgt Castillo was aware that what he did was wrong and that he had been caught.

Id.

In September 2021, C.C. and Appellant lived at or near Scott Air Force Base, Illinois and Appellant was tasked to deploy. (Id.) C.C. discovered images of Appellant's step-daughter on an adult female's body. (R. at 49; Pros. Ex. 1, Att. 2.) C.C. confronted Appellant about the images, which led to Appellant confessing misdeeds he had committed against C.C. during their marriage both through electronic messaging and phone call. (Pros. Ex. 1, Atch. 2; App. Ex.

XXVI, Atch. 4.) C.C. recalled a time she had woken up to Appellant touching her breasts and asked how many times Appellant had done that to her, to which Appellant estimated 20-30 times. (Pros. Ex. 1, Atch. 2.) Appellant also confessed to C.C. that he had engaged in sexual intercourse with her while she was asleep or affected by sleeping or pain medication approximately 8 times, including several times a night. (App. Ex. XXVI, Atch. 4.) Appellant stated he derived extra pleasure knowing C.C. was actually unconscious, due in part to disregard of her boundaries. (Id.) Appellant apologized to C.C., stating, “I’m sorry that I bypassed our intimacy for my own selfish sexual gratification.” (Pros. Ex. 1, Atch. 2.)

Appellant was evaluated pursuant to R.C.M. 706, and that evaluation determined he was competent to participate in his own defense and was able to appreciate the nature, quality, and wrongfulness of his conduct at the time of the offense. (Pros. Ex. 1; App. Ex. XIX.) The evaluation also resulted in Appellant’s diagnosis of Borderline Personality Disorder, Adjustment Disorder with Mixed Anxiety and Depressed Mood, and Other Specified Trauma and Stress Related Disorder. (Id.)

#### *Plea Colloquy*

During the plea colloquy, the military judge reviewed the stipulation of fact with Appellant portion by portion and confirmed the facts as true and correct to the best of Appellant’s knowledge and belief. (R. at 306-319.) The military judge asked Appellant to explain why he was guilty in his own words. (R. at 326.) Appellant explained that on one night between 1 November 2017 and 30 April 2018: 1) C.C. was asleep in the bed next to him; 2) he knew she was asleep because of when she had gone to bed and her breathing pattern; and 3) he reached his right hand up her shirt and touched her breasts for about five minutes. (R. at 326-

327.) Appellant further stated that he knew at that moment she was asleep, was not aware he was touching her, and he touched her because it gave him sexual pleasure. (R. at 327.)

The military judge asked Appellant to clarify several points. Appellant confirmed C.C. was unresponsive to him touching her because she was asleep. (R. at 328-329.) Appellant also clarified why he believed C.C. was asleep and why a reasonable person would have known she was asleep, “the breathing pattern, and level of wakefulness; arousability, you’d take it as someone that was asleep.” (R. at 330.) The military judge asked if C.C. woke up at any point, to which Appellant replied, “I felt her move and she seemed to reach a state of partial wakefulness.” (R. at 331.) The military judge followed up to ask whether C.C. went back to sleep; Appellant confirmed she did. (R. at 332.) The military judge then asked whether Appellant and C.C. had ever discussed this incident. (Id.) Appellant responded that he explained the events as they happened to C.C. and apologized to her. (R. at 332.) Appellant confirmed he was not coerced or forced to commit the sexual contact upon C.C. and could have avoided it if he had wanted to. (R. at 333.) Appellant agreed he did not believe he had any legal justification or excuse for committing sexual contact upon C.C. and that nothing in his sexual history together with C.C. gave him the authority or consent to engage in sexual conduct that evening. (Id.)

Following the colloquy, the military judge accepted Appellant’s plea. (R. at 368, 376.) The military judge, after consideration and deliberation of all matters presented, sentenced Appellant within the bounds of the plea agreement, namely: a bad-conduct discharge (BCD), 4 months’ confinement, and reduction to E-1. (R. at 468.) The reduction and automatic forfeitures were suspended and waived respectively for the maximum allowable time, also in accordance with the plea agreement. (Entry of Judgment, ROT, Vol. 1.)

**ARGUMENT**

**I.**

**TECHNICAL SERGEANT CASTILLO'S PLEA TO  
ABUSIVE SEXUAL CONTACT WAS PROVIDENT.**

*Additional Facts*

*Standard of Review*

*Law and Analysis*











## II.

### **APPELLANT AGREED TO A BAD-CONDUCT DISCHARGE IN HIS PLEA DEAL, AND THE SENTENCE IS NOT INAPPROPRIATELY SEVERE.**

#### *Standard of Review*

This Court reviews sentence appropriateness de novo. United States v. Lane, 64 M.J. 1, 2 (C.A.A.F. 2006). This Court has the statutory duty to “independently determine, in every case within [its] limited Article 66, UCMJ, jurisdiction, the sentence appropriateness of each case [it] affirm[s].” United States v. Baier, 60 M.J. 382, 384–85 (C.A.A.F. 2005) (alterations in original).

#### *Law and Analysis*

Pursuant to Article 66(d), UCMJ, this Court “may affirm only the sentence, or such part or amount of the sentence, as the Court finds correct in law and fact and determines, on the basis of the entire record, should be approved.” 10 U.S.C. § 866(d). The purpose of such review is “to ensure ‘that justice is done and that the accused gets the punishment he deserves.’” United States v. Joyner, 39 M.J. 965, 966 (A.F.C.M.R. 1994) (quoting United States v. Healy, 26 M.J. 394, 395 (C.M.A. 1988)).

In assessing sentence appropriateness, this Court considers “the particular appellant, the nature and seriousness of the offense[s], the appellant’s record of service, and all matters contained in the record of trial.” United States v. Hamilton, 77 M.J. 579, 587 (A.F. Ct. Crim. App. 2017) (citations omitted). “The power to review the entire record includes the power to consider the allied papers, as well as the record of trial proceedings.” United States v. Hutchison, 57 M.J. 231, 234 (C.A.A.F. 2002). The Court also considers the “limits of the [plea agreement] that the appellant voluntarily entered into with the convening authority.” United States v. Fields, 74 M.J. 619, 626 (A.F. Ct. Crim. App. 2015).

Although this Court has discretion to determine whether a sentence is appropriate, it has “no power to ‘grant mercy.’” 77 M.J. at 587 (citing United States v. Nerad, 69 M.J. 138, 146 (C.A.A.F. 2010)); *see also* United States v. Walters, 71 M.J. 695, 698 (A.F. Ct. Crim. App. 2012) (“[W]e are not authorized to engage in exercises of clemency.”). Thus, as long as a sentence is not inappropriately severe, this Court may affirm it even if it is not what this Court would have adjudged:

By affirming a sentence, we do not necessarily mean that it is the sentence we would have adjudged had we been the sentencing authority. The numerous permutations and combinations of sentencing alternatives available to the sentencing authority are so broad that, normally, there will not be only one sentence that is appropriate for a particular appellant. Thus, it may be more fitting for this Court to find that a particular sentence “is not inappropriate,” rather than “is appropriate.”

Joyner, 39 M.J. at 966.

Here, Appellant asks this Court to set his punitive discharge aside as “inappropriately severe.” For the reasons discussed below, Appellant’s sentence to a BCD is not inappropriately severe and this Court should affirm the sentence.

***A. Given Appellant’s crime and the absence of extenuating or mitigating circumstances, the BCD was appropriate.***

Despite the fact that he agreed to a BCD in his plea agreement, Appellant now contends that it is “excessive.” (App. Br. at 14.) As support, Appellant cites the same evidence offered at sentencing proceedings, namely his service in the Air Force, his ongoing mental health treatment, and his remorse. (App. Br. at 14-17.) Nothing Appellant offers is compelling extenuation or mitigation evidence sufficient to set aside the BCD; therefore, this Court should not grant sentencing relief.

To start, Appellant’s “unblemished nine-year” service in the Air Force (App. Br. at 15) is misleading, considering Appellant had only served 8 years and 8 months (Pros. Ex. 2) and had received paperwork for being late to a mandatory meeting in 2020. (Pros. Ex. 4). Nevertheless, these are minor inconsistencies. Even eight and a half years of service means little when one considers that only three years into his enlistment, Appellant groped C.C., his wife, while she was unconscious for his own sexual gratification. The gravity of this behavior is heightened by the fact that Appellant knew his wife had been assaulted in her sleep in her past, was never able to fully process it, and lived in fear of it happening again. (Pros. Ex. 1.) Appellant insists that but for his “desire to heal himself and his marriage, *neither his wife nor the Government would have been aware of the misconduct.*” (App. Br. at 14) (emphasis added.) This does not go to Appellant’s credit, but demonstrates that his crime was to gratify his own sexual desires by taking advantage of C.C.—with a past experience of being assaulted in her sleep—in a way that he thought he could avoid detection and escape culpability. Indeed, his own words during the pretext phone call show his thought process, that he derived “extra pleasure” from committing sexual acts upon C.C. while she was “actually unconscious” due in part to the “disregard” of her boundaries. (App. Ex. XXVI, Atch 4 at 46:50-47:10.) Further, C.C. specifically remembered waking up to him touching her breasts on one occasion and confronted Appellant about it, leading to the charge of abusive sexual contact. (Pros. Ex. 1.)

Appellant has not presented any extenuating evidence to explain the circumstances surrounding assaulting his wife. In fact, during his plea inquiry, Appellant explicitly acknowledged that he knew what he was doing was wrong, he could have avoided committing sexual contact if he had wanted to, and nothing in his sexual history with C.C. gave him the authority or consent to touch C.C.’s breasts on that occasion (R. at 331-333). Despite C.C.

determining that she no longer wished to provide sworn testimony against Appellant in December 2022 (App. Ex. XXIII), the evidence against Appellant from his own confessions was strong and the case was not terminated, leading to a plea agreement executed in February 2023. (App. Ex. XXX.)

Further compounding the futility of Appellant's position is the lack of compelling mitigation evidence that would justify lessening his punishment. Though "evidence of the reputation or record of the accused in the service for efficiency, fidelity, subordination, temperance, courage, or any other trait that is desirable in a servicemember" may constitute matters in mitigation, every appellant's record must be put into its proper context. R.C.M. 1001(d)(1)(B). While saving patients, assisting births, and recovering personnel deserve due credit, in context, Appellant was an Aeromedical Evacuation Technician and these tasks were within his mission duties. (Pros. Ex. 3.) The entirety of Appellant's duty history was evaluated in sentencing at trial. As to Appellant being the "embodiment of the core value of service before self" (App. Br. at 15), this utterly fails when Appellant openly acknowledged that he put his own sexual gratification ahead of his wife's wellbeing. (Pros. Ex. 1, App. Ex. XXVI, Atch 4.) What Appellant has presented are not "particular acts of good conduct or bravery" or reputation for "efficiency, fidelity, subordination, temperance, [or] courage" that warrant sentence relief.

R.C.M. 1001(d)(1)(B).

Equally unconvincing are Appellant's attempts to portray his ongoing therapy and self-punishment as grounds for relief. (App. Br. at 16.) The fact that Appellant attempted to become better *after* he committed the offense and *after* he was caught and *after* he confessed his crime against his wife does not somehow make the sentence less appropriate. If anything, his ongoing dedication to rehabilitation and deterrence shows that the sentence is having its intended effects.

Further, while Appellant was diagnosed with several mental health disorders, it was clear from the outcome of his R.C.M. 706 evaluation that *at the time* he committed abusive sexual contact against C.C., he was aware of and able to appreciate the nature and quality or wrongfulness of his conduct. (App. Ex. XIX.) While Appellant has struggled with his mental health and must continue to manage it throughout his life, these diagnoses do not excuse, explain, or minimize the sexual offense for which he pled guilty. Nothing presented by Appellant rises to sufficient matters in mitigation or extenuation. Therefore, this Court should not grant relief.

***B. A BCD was an appropriate, bargained-for benefit under the plea agreement and Appellant was fully advised of its impact and effects.***

Plea bargains are compromises between the Government and the accused that are informed by society’s “powerful and legitimate interest in punishing the guilty, an interest shared by the [Government] and the victims of crime alike.” Shinn v. Ramirez, 596 U.S. 366, 377 (2022). This interest is why the Government might accept a negotiated plea to one offense and withdraw another offense if an accused is willing to agree to certain punishment—to ensure that the accused will be held accountable and that victims will see justice done. Such plea bargains are “important components of this country's criminal justice system.” Bordenkircher v. Hayes, 434 U.S. 357, 361 (1978). And when “[p]roperly administered, they can benefit all concerned.” Id. at 362. This Court must consider such plea agreements when framing sentence appropriateness review. See 10 U.S.C. § 866(d). Absent this context, this Court would be forced to evaluate certain sentences in a vacuum, which could lead to serious miscarriages of justice.

As a starting point, “accused’s own sentence proposal is a reasonable justification of its probable fairness to him.” Fields, 74 M.J. at 625. Appellant knowingly and voluntarily entered into a plea agreement which included a provision that a BCD “*must* be adjudged.” (Pros. Ex. 1) (emphasis added). Appellant pled guilty to the specification of abusive sexual contact on one

occasion, excepting out the words ‘on divers occasions’ from the specification as written on the charge sheet. (Id.) As discussed on the record, the maximum punishment based solely on a plea of guilty to the offense of abusive sexual contact is: seven years’ confinement, reduction to E-1, total forfeitures, and a dishonorable discharge. (R. at 334-335.) Based on the plea agreement, the sentence was significantly reduced to a range of 2-10 months’ confinement, a BCD, and any reduction in rank or forfeitures would be suspended, deferred, or waived for the maximum period of time possible for the benefit of C.C. and Appellant’s dependent son. (App. Ex. XXX.)

This was not the only benefit Appellant received from the plea agreement. Another provision required the government to withdraw and dismiss with prejudice a specification of sexual assault under Article 120, UCMJ, (Id.) which carries a maximum sentence of 30 years confinement, a mandatory dishonorable discharge, total forfeitures, and reduction to E-1.

The plea agreement is contained in the record and the provision regarding the BCD was discussed at length between the military judge and Appellant. Appellant confirmed he understood the stigma of a BCD and its limiting effect on future employment, schooling, legal rights, economic opportunities, social standing, and veterans’ benefits. (R. at 351.) Appellant confirmed he thoroughly discussed his desires with his trial defense counsel and fully understood the ramifications of a BCD. (Id.) Appellant was advised and understood if he had not accepted a punitive discharge, he may have been subject to a less severe administrative separation process. (R. at 352.) Finally, Appellant confirmed it was his “express desire to be discharged from the service with a bad conduct discharge” and explicitly authorized trial defense counsel to argue his desire to be discharged with a BCD. (Id.)

Matters in the entire record must be taken into account when evaluating sentence appropriateness. Failure to account for such nuances would be error, considering society’s

“powerful and legitimate interest in punishing the guilty.” Shinn, 596 U.S. at 377. Because the public interest in justice informs plea agreements like the one in this case, this Court cannot properly review sentence appropriateness without considering how the agreement shaped the outcome. *See* 10 U.S.C. § 866(d); *see also* United States v. Arroyo, No. 24-0212, 2025 CAAF LEXIS 688 (C.A.A.F. Aug. 19, 2025).

Here, the plea agreement was the result of negotiation in the face of strong evidence, Appellant received significant benefits by reducing the maximum potential punishments available, and was fully advised on his rights as well as the ramifications of a BCD. Simply put, the sentence is appropriate, and Appellant agreed so at trial. Accordingly, this Court should affirm the sentence.

***C. C.C.’s purported intent with respect to reduction in punishment is irrelevant because sentence appropriateness review is not about granting mercy.***

Citing to the stated interests of C.C., Appellant also suggests that this Court should set aside the BCD because C.C., as the named victim, requested that Appellant’s punishment be reduced “to the fullest extent possible.” (App. Br. at 15.) This cry for mercy on behalf of Appellant is distinct from this Court’s responsibility to review for sentence appropriateness.

This Court’s sentence appropriateness review is aimed at “assuring that justice is done and that the accused gets the punishment he *deserves*.” Healy, 26 M.J. at 395 (emphasis added). By contrast, “[c]lemency involves bestowing mercy—treating an accused with *less rigor than he deserves*.” Id. at 395 (emphasis added). This responsibility for clemency “was placed by Congress in other hands”—those of the convening authority. Id. at 396. “Granting mercy for any reason or no reason is within the purview of the convening authority.” *See* Nerad, 69 M.J. at 146.

Thus, while Appellant’s remorse, ongoing rehabilitation, purported self-punishment, and the request by C.C. that his punishment be minimized may have been grounds for clemency by

the convening authority, they are not grounds for sentencing relief from this Court. Convening authorities may, in limited circumstances, reduce, commute, or suspend the sentence of an accused up to and including a punitive discharge under R.C.M. 1109(e)-(f). However, none of those circumstances apply here. In asking this Court to bestow mercy that was beyond the convening authority's reach, Appellant is asking this Court to engage in an unauthorized exercise of clemency. *See Walters*, 71 M.J. at 698. Even if this Court were authorized to grant such clemency, it would not be warranted here because the BCD is not inappropriately severe.

Appellant received far less than the maximum allowable sentence under the plea agreement. Only by preserving the BCD can this Court ensure that "justice is done and that the accused gets the punishment he deserves." *Healy*, 26 M.J. at 395. To grant Appellant relief would not only be an improper exercise of a clemency power that this Court does not have, but also a miscarriage of justice. Thus, Appellant's sentence should be affirmed.

### III.

#### **THE POST-TRIAL DELAY WAS NOT PREJUDICIAL AND DOES NOT WARRANT RELIEF.**

##### *Additional Facts*

Appellant was sentenced on 21 February 2023. (Entry of Judgment, ROT, Vol. 1.) His case was originally docketed with this Court on 4 November 2024. A total of 622 days elapsed between the conclusion of Appellant's court-martial and his case being docketed with this Court. Since this case was initially docketed with this Court, Appellant has requested eight enlargements of time to file his assignments of error. All were opposed by the Government but granted by this Court. These enlargements of time have resulted in 300 days elapsing before Appellant filed his initial Assignments of Error with this Court. The Government has not sought any enlargements of time to file this answer brief.

### *Standard of Review*

This Court reviews *de novo* an appellant's entitlement to relief for post-trial delay. United States v. Livak, 80 M.J. 631, 633 (A.F. Ct. Crim. App. 2020) (citing United States v. Moreno, 63 M.J. 129, 135 (C.A.A.F. 2006)).

### *Law*

A complete record of proceedings, including all exhibits and a verbatim transcript, must be prepared for any general court-martial that results in a punitive discharge or more than six months of confinement. Article 54(c)(2), UCMJ.

R.C.M. 1112(f) instructs that “[i]n accordance with regulations prescribed by the Secretary concerned, a court reporter shall attach” certain matters to the record before forwarding for appellate review. Department of the Air Force Manual (DAFMAN) 51-203, Records of Trial, 21 April 2021, ¶ 1.4 instructs on what must be included in a “completed ROT.” DAFMAN 51-203, ¶ 1.4.4. further directs: “A completed ROT (Part 1 and Part 2) is required for post-sentencing and appellate review. The completed ROT triggers the metrics and milestones mandated in DAF 51-201 (identified as “ROT Completion.”).”

In Moreno, the CAAF established thresholds for facially unreasonable delay, including docketing with the Court of Criminal Appeals more than 30 days after the convening authority's action or when a Court of Criminal Appeals completes appellate review and renders its decision over 18 months after the case is docketed with the court. 63 M.J. at 142-143. Post-trial processing of courts-martial has changed significantly since Moreno, including the requirement to issue an Entry of Judgment before appellate proceedings begin. *See Livak*, 80 M.J. at 633. Now, this Court applies an aggregate standard threshold: 150 days from the day the appellant was sentenced to docketing with this Court. Id.

When a case does not meet one of the above standards, the delay is presumptively unreasonable and a test to review claims of unreasonable post-trial delay evaluates (1) the length of the delay; (2) the reasons for the delay; (3) the appellant's assertion of the right of timely review and appeal; and (4) prejudice. Moreno, 63 M.J. 135 (citing Barker v. Wingo, 407 U.S. 514, 530) (1972)). All four factors are considered together and “[n]o single factor is required for finding a due process violation and the absence of a given factor will not prevent such a finding.” Id. at 136.

To find a due process violation when there is no prejudice under the fourth Barker factor, a court must find, “in balancing the other three factors, the delay is so egregious that tolerating it would adversely affect the public’s perception of the fairness and integrity of the military justice system.” United States v. Toohey, 63 M.J. 353, 362 (C.A.A.F. 2006).

In Moreno, the CAAF identified three types of cognizable prejudice for purposes of an appellant’s due process right to timely post-trial review: (1) oppressive incarceration; (2) anxiety and concern; and (3) impairment of the appellant’s ability to present a defense at a rehearing. 63 M.J. at 138–39 (citations omitted). Where an appellant has not shown prejudice from the delay, there is no due process violation unless the delay is so egregious as to “adversely affect the public’s perception of the fairness and integrity of the military justice system.” Toohey, 63 M.J. at 362.

Independent of any due process violation, this court may provide appropriate relief where there is “excessive delay in the processing of the court-martial after the judgment was entered into the record.” United States v. Valentin-Andino, 85 M.J. 361, 364 (C.A.A.F. 2025) (citing Article 66(d)(2), UCMJ, 10 U.S.C. § 866(d)(2)). The standard is whether “appropriate relief” is warranted, which means relief that is “suitable under the facts and circumstances of the case.”

Valentin-Andino, No. ACM 40185 (f rev), 2024 CCA LEXIS 223, at \*17-18 (A.F. Ct. Crim. App. 7 Jun. 2024).

After the Valentin-Andino decision, it remains unclear as to whether the Gay factors still apply to determine whether Appellant is entitled to relief under Article 66(d)(2). United States v. Gay, 74 M.J. 736, 744 (A.F. Ct. Crim. App. 2015) *aff'd*, 75 M.J. 264 (C.A.A.F. 2016). However, assuming arguendo the Gay factors apply in deciding whether to invoke Article 66, to grant relief as a “last recourse,” this Court laid out a non-exhaustive list of factors to be considered, including:

- (1) How long the delay exceeded the standards set forth in Moreno;
- (2) What reasons, if any, the Government set forth for the delay, and whether there is any evidence of bad faith or gross indifference to the overall post-trial processing of this case;
- (3) Whether there is some evidence of harm (either to the appellant or institutionally) caused by the delay;
- (4) Whether the delay has lessened the disciplinary effect of any particular aspect of the sentence, and is relief consistent with the dual goals of justice and good order and discipline;
- (5) Whether there is any evidence of institutional neglect concerning timely post-trial processing; and
- (6) Given the passage of time, whether the court can provide meaningful relief.

Gay, 74 M.J. at 744.

The CAAF recently explained that, while cases of institutional neglect may warrant relief, such relief need only be “appropriate, meaning it must be suitable considering the facts and circumstances surrounding that case.” Valentin-Andino, 2024 CCA LEXIS 223 at \*11. No meaningful relief is required. Id.

### *Analysis*

Appellant claims that relief is warranted because the government's failure to get from sentencing to docketing with this Court demonstrated a facially unreasonable delay, institutional neglect, and gross indifference toward post-trial processing. (App. Br. at 19-28). While this delay is unreasonable, it does not rise to gross indifference or institutional neglect and Appellant suffered no prejudice. Furthermore, the circumstances that caused the delay in this case are an anomaly that is unlikely to recur. Thus, discretionary relief is not warranted.

#### *A. Appellant's due process rights were not violated*

The majority of the Barker factors weigh in favor of the government. Specifically, 1) a totality of the circumstances view of the detail and information provided in both the Moreno Chronology and the Court Reporter Chronology demonstrate government responsiveness and diligence in remedying errors or miscommunications once discovered; 2) Appellant's lack of assertion for post-trial review; and 3) the lack of prejudice to Appellant. Further as to prejudice, Appellant has not been subjected to oppressive incarceration, his participation in his own defense has not been impaired, and he has failed to demonstrate particularized anxiety. As a result, Appellant's due process rights were not violated, the reputation of the military justice system is not adversely impacted, and relief is not warranted.

#### *Barker Factors –Length of Delay*

The first Barker factor—length of delay—weighs in favor of Appellant. The 622-day period from sentencing to docketing exceeds the 150-day benchmark in Livak, creating a presumption of unreasonableness and properly triggers the four-factor Barker analysis. However, the length of the delay is merely the starting point of the inquiry, not its conclusion.

*Barker Factors –Reason for Delay*

The reasons for the delay are many and include technological failures, family crises, miscommunication, and hefty workloads. Appellant characterizes the delay as “inexplicable” and “unjustified and inexcusable.” (App. Br. at 19, 21). This position fails when looking at the detail provided in both the Moreno Chronology and the Court Reporter’s Chronology in the record. (ROT, Vol. 5.)

First, the Court Reporter had an overloaded schedule, detailed to and completing tasks for nearly thirty other cases from November 2022 until November 2023. (Reporter’s Chronology, ROT, Vol. 5.) The Court Reporter also lost 62 hours of use-or-lose leave during this period due to overscheduling. (Id. at 18.) The exceptional detail provided in the Chronology also reflects time for holidays, mandatory trainings, and the diagnosis and death of the Court Reporter’s nephew. (Id.) Further, from 11 September 2024 until 18 October 2024, there was a significant software issue which rendered transcription essentially impossible for the Court Reporter on all cases. (Id.) The Court Reporter repeatedly contacted several offices to attempt to resolve the issue, but the issue persisted for 37 days. (Id.) Access was finally restored on 18 October 2023, a Wednesday afternoon. (Id. at 16.) By Monday, the Court Reporter had accomplished required taskers, completed progress review inputs, and began finalizing the transcript for this case. (Id. at 16.) Within a week, the transcript for this case was sent to trial and defense counsel, on 1 November 2023. (Id. at 16.) Trial counsel submitted their review on 8 and 21 November 2023. (Id. at 17.) However, the Court Reporter did not receive the review until 27 November 2023 due to leave and the Thanksgiving holiday. (Id. at 18.)

The base legal office created a copy of the ROT and attempted to mail it to Appellant in December 2023, 18 days after the ROT was certified and 297 days from sentencing. (Moreno

Chronology, ROT, Vol.5.) However, Appellant’s copy of the ROT was undeliverable. (Id.) There was a miscommunication between the NAF and the base legal office, wherein it was mistakenly believed that the ROT had been processed and forwarded to JAJM on 5 February 2024, 349 days after sentencing and 70 days after the Court Reporter had certified the ROT. (Id.) This period would have included minimum manning and holidays for Christmas, New Year’s, and Martin Luther King Day—meaning approximately 25 days were lost to non-duty days. This miscommunication was exacerbated by the transition from AMJAMS to DCMS in September 2023. Indeed, it is noted in the Moreno Chronology that all information regarding this case and three other cases at 375 AMW/JA had not carried over from AMJAMS to DCMS. (Id.)

On 6 September 2024, The Judge Advocate General enacted a mandatory post-trial processing dashboard to track courts-martial from the date of sentencing until appellate review is complete. (Post-Trial Processing Dashboard, dated Sept. 6, 2024). Subsequently, 375 AMW/JA discovered one case which had never made it to JAJM and reached out to JAJM for confirmation on 16 September 2024. (Moreno Chronology, ROT, Vol. 5.) JAJM responded, identifying four ROTs, including this case, that had not been sent to JAJM. (Id.) Within 17 days, 375 AMW/JA regenerated the missing ROTs, reviewed them, made copies, transmitted them to the NAF, and mailed them to JAJM. (Id.) The ROT was received and this case was docketed on 4 November 2024.

Taken together, the Court Reporter Chronology and the Moreno Chronology reflect government actors who worked to push forward the post-trial process, timely responded to resolve persistent issues, and immediately worked to correct errors once detected. The ROT was not completed and the transcript not finished until 27 November 2023, 279 days after sentencing.

More than 140 of those days—half of the total time for this period—were lost to leave, holidays, non-duty days, mandatory training, and the persistent technical issue which rendered transcription tasks impossible. (Court Reporter Chronology, ROT, Vol. 5.) While the miscommunication regarding the status of the ROT with the NAF caused a 222-day delay between 5 February 2024 and 16 September 2024, this period is eclipsed by the diligent work that preceded it and the critical problem-solving that immediately followed. This serious finding of missing information in DCMS and the miscommunication about the status of several ROTs in several cases sparked an immediate and thorough response, including urgent consultations between the base legal office, the NAF, and JAJM.

Given the totality of the circumstances, while this delay is unreasonable, it is not demonstrative of gross indifference or institutional neglect. Appellant agrees that there is no evidence the government acted in bad faith. (App. Br. at 26). Indeed, the record is filled with pitfalls and obstacles that were resolved as quickly as the government actors were able. The actions reflected here were the actions of parties committed to procedural integrity and proper administration of justice in a fluid environment. Additionally, with the enactment of the mandatory post-trial dashboard, such delays are not likely to recur. Indeed, the purpose of this dashboard is to allow users to view the status of all courts-martial for the expressed purpose of identifying cases nearing established post-trial processing milestones including Moreno and Livak. In fact, using this program is what led to the discovery of the issue in this case and it being urgently remedied in September 2024. The enactment of this program further highlights there is no gross indifference or institutional neglect in terms of post-trial processing. Instead, the enactment of this program by The Judge Advocate General shows the Government is actively seeking to “promote greater efficiency and accountability in the post-trial processing of courts-

martial and administrative proceedings.” (See Post-Trial Processing Dashboard, dated Sept. 6, 2024.)

*Barker Factors –Appellant did not assert right to timely appellate review*

This third Barker factor “calls upon [this Court] to examine an aspect of [Appellant’s] role in this delay.” Moreno, 63 M.J. at 138. Specifically, whether Appellant “object[ed] to any delay or assert[ed] his right to timely review and appeal prior to his arrival at this court.” Id. While failing to demand timely review and appeal does not waive that right, only if Appellant actually “asserted his speedy trial right, [is he] ‘entitled to strong evidentiary weight’” in his favor. Id. (quoting Barker, 407 U.S. at 528).

As he concedes in his brief, Appellant never asserted his right to timely appellate review prior to his case being docketed with this Court. Moreover, Appellant never asserted it during the 300 days in which his counsel was preparing to file his brief to this Court, while at the same time specifically agreeing to eight enlargements of time. Instead, Appellant only asserted the right as incorporated into his assignments of error. Therefore, this factor weighs in the United States’ favor.

*Barker Factors –Appellant suffered no prejudice*

Appellant asserts that the government’s delay impacted Appellant’s ability to participate fully in his appeal—citing the degradation of memory alone. However, this does not take into account the 300 days of enlargements of time requested by Appellate Defense Counsel, opposed by the government, and granted by this Court. During the entirety of those 300 days, Appellant was not confined and there has been no assertion that Appellate Defense Counsel had trouble contacting or conferring with Appellant directly. Further, regarding the service of the ROT to Appellant, TSgt WK spoke directly with Appellant to confirm the correct email address for

transmission of the of the ROT and transmitted the ROT via DoD SAFE on 1 October 2023. (ACC and VIC Receipt for ROT – *U.S. v. TSgt Castillo*, ROT, Vol. 5.) TSgt WK called Appellant again on 3 October 2024 to confirm he had received the download link. (Id.) Appellant responded that he received it but had not gotten around to downloading it yet. (Id.) This behavior—coupled with Appellant’s approval for counsel to request 300 days of extra time—is simply not indicative of someone who was anxiously awaiting review of the ROT, desperate to begin his appeal, or an eagerness to refresh his recollection of the trial. Furthermore, Appellant provided this Court no declaration addressing any alleged prejudice he has faced.

Turning to the three types of cognizable prejudice as described in Moreno, Appellant’s argument further fails. 63 M.J. at 142-143. The first type of prejudice fails, as nothing in the record raises a claim of oppressive incarceration. Id. at 139. As to the second type of prejudice, anxiety and concern, “the appropriate test for the military justice system is to require an appellant to show particularized anxiety or concern that is distinguishable from the normal anxiety experienced by prisoners awaiting an appellate decision.” Id. Appellant has failed to raise any particularized anxiety sufficient to raise this type of prejudice. Finally, looking at the third type of prejudice, his ability to present a defense at a rehearing is not impaired. Id. at 140. As discussed above, Appellant’s delay in downloading the ROT and the repetitive requests for enlargement of time do not demonstrate an individual who is anxious to complete appellate review due to any diminished ability to fully participate in his own defense.

Where an appellant has not shown prejudice from the delay, there is no due process violation unless the delay is so egregious as to “adversely affect the public’s perception of the fairness and integrity of the military justice system.” Toohey, 63 M.J. at 362. However, as

discussed above, this case is not one of bad faith, neglect or indifference, and does not demonstrate a lack of urgency. *Cf. United States v. Atencio*, No. ACM S32783, 2024 CCA LEXIS 543, at \*9-10 (A.F. Ct. Crim. App. Dec. 20, 2024). There is also no indication of prejudice. Here, delays were the aggregation of significant technological difficulties, software failures, non-duty days, leave, the sickness and death of the Court-Reporter's nephew, and miscommunication. Solutions were sought immediately and persistently as soon as issues were discovered, including prioritizing forwarding the ROT for this case as swiftly as possible. Should a reasonable member of the public be made aware of the reasons for the delay, their perception of the fairness and integrity of the military justice system would not be adversely affected. Again, given the anomalies in this case, coupled with the enactment of the mandatory post-trial dashboard, make it highly unlikely such delays will occur in the future. Thus, there being no due process violation, no adverse public view of the military justice system, and no prejudice, no relief is warranted.

***B. Appellant is not entitled to relief under Article 66(d)***

The CAAF decision in Valentin-Andino established that in cases of post-trial processing delays, only appropriate relief is required. Valentin-Andino, 2024 CCA LEXIS 223 at \*11. The CAAF further emphasized that “appropriate relief” is not synonymous with “meaningful relief.” Id. at \*9. Therefore, “if a Court of Criminal Appeals decides relief is warranted for excessive post-trial delay under Article 66(d)(2) that relief must be ‘appropriate,’ meaning it must be suitable considering the facts and circumstances surrounding that case.” Id. at \*11. Appellant is requesting this Court to set aside the BCD. (App. Br. at 28). Considering the facts and circumstances of this case, this Court should not grant Appellant relief for post-trial delays that were non-prejudicial and not unreasonable considering the totality of the circumstances,

especially considering his conviction for abusive sexual contact of his spouse while she was sleeping. In-depth discussion as to the appropriateness of the BCD is discussed above in Issue II and will not be repeated here.

Article 66(d) grants the Courts of Criminal Appeals the discretion to grant relief for post-trial delays. In Valentin-Andino, this Court found gross indifference and institutional neglect yet only modified the sentence by altering the reduction in grade to E-2 rather than E-1. Id. at 17, 19. The extent of relief Appellant seeks—setting aside a BCD—is well beyond the relief granted in Valentin-Andino, especially where there is no bad faith, institutional neglect, or gross indifference. Here again, the enactment of the post-trial dashboard displays a proactive approach by the Government to promote greater efficiency and accountability in post-trial processing – a clear indicator of neither neglect or indifference to the issue. Furthermore, the delay in this case has not lessened the disciplinary effect of Appellant’s sentence, while relief in this case – in the form of a disapproval of Appellant’s BCD – is inconsistent with the dual goals of justice and good order and discipline. In sum, Appellant is not entitled to post-trial relief for post-trial delay. While the delay was unreasonable, it did not result in any harm or prejudice, and significant steps have been enacted to ensure this problem does not recur. This Court should deny this assignment of error and should not grant relief.

**CONCLUSION**

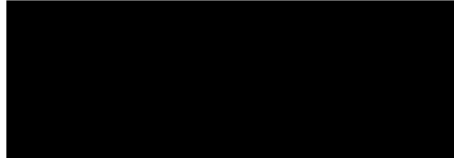
For these reasons, the United States respectfully requests that this Honorable Court deny Appellant's claims and affirm the findings and sentence in this case.



CATHERINE D. MUMFORD, Capt, USAF  
Appellate Government Counsel



MARY ELLEN PAYNE  
Associate Chief



G. MATT OSBORN, Col, USAF  
Associate Chief



**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 30 October 2025.



CATHERINE D. MUMFORD, Capt, USAF  
Appellate Government Counsel



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

<b>UNITED STATES,</b> <i>Appellee,</i>	)	UNITED STATES MOTION TO ATTACH
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40705
<b>CHRISTIAN M. CASTILLO</b>	)	
United States Air Force	)	30 October 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(b) of this Court’s Rules of Practice and Procedure, the United States moves this Court to attach the following document to this motion:



- *Appendix – Memorandum for All Staff Judge Advocates, Post-Trial Processing Dashboard*, dated 6 September 2024 (2 pages)



Appellant’s third assignment of error asserts that post-trial delay was unnecessary, egregious, and the result of gross indifference or institutional neglect. In evaluating the reasonableness of a post-trial delay this Court reviews the length of the delay; the reasons for the delay, and prejudice to the Appellant, among other factors. See United States v. Moreno, 63 M.J. 129, 135 (C.A.A.F. 2006). The Memorandum provides information relevant to the evaluation of institutional neglect or gross indifference, which is necessary for this Court to conclude whether Appellant is entitled to any relief for post-trial processing.

Our Superior Court held 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 concluded that “based on experience . . . ‘extra-record fact determinations’ may be ‘necessary predicates to resolving appellate questions.’” Id. at 442.

(quoting United States v. Parker, 36 M.J. 269, 272 (C.M.A. 1993)). The issue of post-trial delay was directly raised by materials in the record because they show, but do not fully explain, the delays in the post-trial processing of Appellant's case.

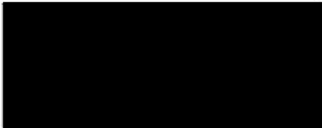
WHEREFORE, the United States respectfully requests this Court grant this Motion to Attach the declaration and its attachments.

  
CATHERINE D. MUMFORD, Capt, USAF  
Appellate Government Counsel  


  
MARY ELLEN PAYNE,  
Associate Chief  


**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Appellate  
Defense Division on 30 October 2025.



CATHERINE D. MUMFORD, Capt, USAF  
Appellate Government Counsel



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

<b>UNITED STATES</b>	)	<b>APPELLANT’S</b>
<i>Appellee</i>	)	<b>REPLY BRIEF</b>
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40705
<b>CHRISTIAN M. CASTILLO</b>	)	
United States Air Force	)	6 November 2025
<i>Appellant</i>	)	

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

Pursuant to Rule 18(d)(1) of the Honorable Court’s Rules of Practice and Procedure, Technical Sergeant (TSgt) Christian M. Castillo replies to the United States’ Answer filed on 30 October 2025.

**Assignment of Error II**

**Technical Sergeant Castillo’s willingness to enter a plea agreement does not preclude this Court’s responsibility to independently assess sentence severity.**

While an appellant’s willingness to enter a plea agreement may suggest a sentence is not inappropriately severe, Gov. Br. at 14, it is also not dispositive. *See United States v. Fields*, 74 M.J. 619, 626 (A.F. Ct. Crim. App. 2015) (“[A] sentence within the limits of a [pretrial agreement] might be inappropriately severe . . .”). Instead, this Court must conduct an independent review of the entire record. *United States v. Baier*, 60 M.J. 382, 384–85 (C.A.A.F. 2005). The Government likewise recognizes this Court should conduct its review based on TSgt Castillo’s service history and the nature and seriousness of the offense for which he was convicted. Gov. Br. at 14.

TSgt Castillo was convicted of one specification of abusive sexual contact against

his wife. R. at 468-69. The Government's focus on other alleged misconduct, which it chose to withdraw and dismiss, Gov. Br. at 19, is inappropriate. While in mental health treatment, TSgt Castillo sought to heal his relationship with his wife, and ultimately, he confessed to her that he had touched her breast. Pros. Ex. 1 at 2-3. This act was in the context of a relationship where "sleepy time sex" was a discussed and agreed-upon part of the marriage. *Id.* A bad-conduct discharge, which carries with it immense social "stigma" and a "limiting effect on future employment, schooling, legal rights, economic opportunities, social standing, and veterans' benefits," Gov. Br. at 19, is an inappropriately severe sentence for this conviction.

The supposed compromises that the Government claims it made to obtain TSgt Castillo's plea of guilty, Gov. Br. at 18, are likewise insignificant. The Government points to the plea agreement's term that a bad-conduct discharge *must* be adjudged as a sign that it was an appropriate sentence. *Id.* But agreeing to a specific sentence is not the end of the inquiry. For example, in *United States v. Kerr*, the Navy-Marine Corps Court of Criminal Appeals held that a bad-conduct discharge was an inappropriate sentence, even though the plea agreement required it to be adjudged. No. 202200140, 2023 CCA LEXIS 434, at \*8 n.23 (N-M Ct. Crim. App. Oct. 17, 2023).

While TSgt Castillo certainly received some benefit from the plea agreement, the sentence is nevertheless inappropriately severe, especially considering TSgt Castillo's exceptional service. App. Br. at 15. The Government attempts to belittle TSgt Castillo's service by claiming that saving lives was part of his routine "mission duties" and pointing to the fact that he was once late for a virtual meeting in 2020. Gov. Br. at 16, 17. While the Government urges this Court that its responsibility is not to bestow

“mercy,” this Court must still “do justice.” *United States v. Nerad*, 69 M.J. 138, 146 (C.A.A.F. 2010). Here, justice is not served by a bad-conduct discharge—especially where it does not align with the goals of the only named victim.

### **Assignment of Error III**

**This Court should reject the Government’s attempt to argue that negligence is a defense to egregious post-trial processing errors.**

The inordinate delay in this case violated TSgt Castillo’s due process rights and contravened the standards outlined in *United States v. Moreno*, 63 M.J. 129 (C.A.A.F. 2006). The Government’s delay was caused, in large part, by (1) an unreasonably lengthy period for transcription and (2) an “anomaly” where the legal office and the General Court-Martial Convening Authority (GCMCA) lost track of the Record of Trial (ROT) for nearly a year. *See* Gov. Br. at 26-27. The Government attributes the delay to a number of issues—from “hefty workloads” and “miscommunication,” to “technological failures”—but neither the Government’s negligence nor an unexplained period of short-staffing for court reporters during apparently otherwise normal operations is sufficient for this Court to excuse the unacceptably prolonged delay here. *Id.* at 26; *see United States v. Arriaga*, 70 M.J. 51, 57 (C.A.A.F. 2011) (citing *Moreno*, 63 M.J. at 137) (holding that personnel and administrative issues are “not legitimate reasons justifying otherwise unreasonable post-trial delay”). The Government touts its unsupported claim that a lack of “bad faith” in the post-trial processing of TSgt Castillo’s case alleviates any need to afford TSgt Castillo post-trial relief. Gov. Br. at 28. There is no requirement that the Government must have acted in bad faith for this Court to afford TSgt Castillo relief, and certainly no exception under the *Barker/Moreno* framework for post-trial processing errors due to negligence. *See Barker v. Wingo*, 407 U.S. 514,

531 (1972) (noting that ultimate responsibility of delay caused by negligence rests with the Government); *United States v. Toohey*, 63 M.J. 353 (C.A.A.F. 2006).

Instead of offering good cause for its dilatory processing, the Government repeatedly invokes its own negligence as extenuation for the post-trial delay in this case. The Government even boldly asserts that because it finally remedied its own negligence after more than a year, the shoddy post-trial work in TSgt Castillo's case is an example of "procedural integrity and proper administration of justice in a fluid environment." Gov. Br. at 28. The Government consistently refers to its negligent processing of TSgt Castillo's case as an "anomaly" that "is unlikely to recur." It is as if the Government believes TSgt Castillo's case is the justifiable sacrificial lamb that was required for the legal office and the GCMCA to understand that they should keep track of the processing of a ROT. *Id.* at 25, 27-28. The Government is not afforded a proverbial "free pass" to learn it should have ensured, at any point during the nearly year-long period where it lost track of the ROT, that the ROT was (1) mailed; and (2) reached its intended destination. This process is not complicated. Rather than taking responsibility for its failure to accomplish this simple task, the Government boldly claims that the egregious delay period "is eclipsed by the diligent work that preceded it and the critical problem-solving that immediately followed." *Id.* at 28. The Government fails to understand that nothing in the post-trial processing of TSgt Castillo's case required "critical problem-solving" or new technology; the technology to quickly follow-up with the GCMCA after the ROT was allegedly mailed has existed for decades without computers or the Government's new "dashboard" software. This Court should take action to correct this misunderstanding.

The Government points to “technological failures, family crises, miscommunication, and hefty workloads” as the main reasons why it took 622 days from sentencing to docketing with this Court. But none of these explanations are justifiable reasons for this Court to excuse the Government’s mishandling of TSgt Castillo’s case. *Id.* at 26; *see also United States v. Winfield*, 83 M.J. 662, 666 (A. Ct. Crim. App. 2023) (identifying factors such as actual operational exigencies, in-court coverage issues, court reporter availability issues, or unusual resource shortfalls as justifiable reasons for post-trial processing delay). This type of standstill, caused apparently by a regular workload (with no indication in the record to the contrary) and a lack of diligence in keeping track of the ROT, undermines the core principle of prompt appellate review, diminishes public confidence in military justice, and infringes on TSgt Castillo’s right to a timely appeal.

The Government has failed to provide any justifiable reason for the delay in this case, and, as such, this Court may infer its own reasons. *See United States v. Hennessy*, No. ACM 40439, 2024 CCA LEXIS 343, at \*37 (A.F. Ct. Crim. App. Aug. 20, 2024). In *Hennessy*, this Court inferred a lack of urgency on behalf of the Government as emblematic of “gross indifference” to the overall post-trial processing of that case. *Id.* (quoting *United States v. Gay*, 74 M.J. 736, 744 (A.F. Ct. Crim. App. 2015), *aff’d*, 75 M.J. 264 (C.A.A.F. 2016)).

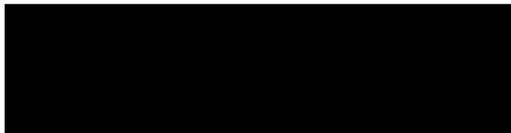
Regardless of whether the delay caused quantifiable prejudice, this Court is empowered to grant relief for “excessive post-trial delay” under Article 66(d)(2). *See Gay*, 74 M.J. at 743. In this case, the principal harm is the extensive time between sentencing and the Court’s receipt of the ROT. This sluggish administrative process

undermines not only efficiency but also public faith in our system of justice. The Government's explanation that the issues in this case have now been remedied by the creation of a new technology for post-trial processing (1) does nothing to remedy the delay in TSgt Castillo's case and (2) provides no evidence that it would resolve the issues seen in the post-trial processing of TSgt Castillo's case where an entire legal office and GCMCA abdicated responsibility for the ROT.

To deter such delays from becoming routine, this Court possesses the discretion to craft appropriate relief. *See United States v. Livak*, 80 M.J. 631, 634 (A.F. Ct. Crim. App. 2020). Whether by setting aside findings or awarding sentence relief, the Court can underscore that lax post-trial administration is intolerable. Beyond addressing TSgt Castillo's specific delay, this remedial action would demonstrate the Court's strong commitment to swift appellate processing for every service member.

This Court should set aside TSgt Castillo's bad-conduct discharge.

Respectfully submitted,



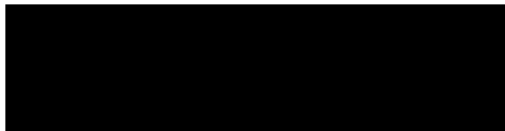
JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel



**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 6 November 2025.

Respectfully submitted,

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JORDAN L. GRANDE, Maj, USAF  
Appellate Defense Counsel

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

<b>UNITED STATES,</b>	)	UNITED STATES MOTION TO
<i>Appellee,</i>	)	FILE PORTIONS OF ANSWER
	)	UNDER SEAL
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40705
<b>CHRISTIAN M. CASTILLO</b>	)	
United States Air Force	)	30 October 2025
<i>Appellant.</i>	)	

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

Pursuant to Rules 13.2(b), 17.2(b), and 23.3(o) of this Court’s Rules of Practice and Procedure, the United States moves to file under seal the following portions of its Answer to the Assignments of Error: pages 6-13.<sup>1</sup> In a partially-sealed filing dated 15 August 2025, Appellant raised one assignment of error which relied on Mil. R. Evid. 412 matters and closed hearings that were sealed by the military judge at trial. (*See* App. Br. at 6-13.) The United States’ answer responding to these issues contains reference to and discussion of the underlying sealed matters, and is therefore required to be filed under seal pursuant to Rule 17.2(b). Counsel for the United States cannot properly respond to Appellant’s assignments of error without citation to these materials.

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<sup>1</sup> The sealed portions of these documents will be delivered via hard copy to the Court and the Appellate Defense Division today.

**WHEREFORE**, the United States respectfully requests that this Honorable Court grant this motion to file under seal.

[REDACTED]  
CAT [REDACTED] apt, USAF  
Appellate Government Counsel

[REDACTED]

[REDACTED]

MARY ELLEN PAYNE  
Associate Chief

[REDACTED]

**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 30 October 2025.



CATHERINE D. MUMFORD, Capt, USAF  
Appellate Government Counsel



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

<b>UNITED STATES</b>	)	<b>No. ACM 40705</b>
<i>Appellee</i>	)	
	)	
<b>v.</b>	)	
	)	<b>ORDER</b>
<b>Christian M. CASTILLO</b>	)	
<b>Technical Sergeant (E-6)</b>	)	
<b>U.S. Air Force</b>	)	
<i>Appellant</i>	)	<b>Panel 2</b>

On 30 October 2025, the Government moved this court to attach the following document to the Appellant’s record of trial: Memorandum for All Staff Judge Advocates, dated 6 September 2024, from The Judge Advocate General of the Air Force, directing use of a “Post-trial Processing Dashboard.” Appellant did not file a response to the motion.

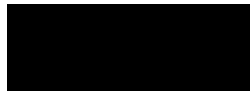
The court has considered the Government’s motion and the applicable law. The court grants the Government’s motion; however, it specifically defers consideration of the applicability of *United States v. Jessie*, 79 M.J. 437 (C.A.A.F. 2020), and related case law to the attachment until it completes its Article 66, UCMJ, 10 U.S.C. § 866, review of Appellant’s entire case.

Accordingly, it is by the court on this 18th day of November, 2025,

**ORDERED:**

The Government’s Motion to Attach is **GRANTED**.

FOR THE COURT



CAROL K. JOYCE  
Clerk of the Court