# UNITED STATES AIR FORCE
# COURT OF CRIMINAL APPEALS

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| **UNITED STATES** | ) | **No. ACM 40786** |
| ***Appellee*** | ) | |
| | ) | |
| **v.** | ) | |
| | ) | **ORDER** |
| **Ward W. FISCHER** | ) | |
| **Technical Sergeant (E-6)** | ) | |
| **U.S. Air Force** | ) | |
| ***Appellant*** | ) | **Panel 2** |

On 25 April 2025, counsel for Appellant submitted a Motion for Enlargement of Time (First) requesting an additional 60 days to submit Appellant's assignments of error. The Government opposes the motion.

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

Accordingly, it is by the court on this 29th day of April, 2025,

**ORDERED:**

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

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

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

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

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

FOR THE COURT

[redacted]

OLGA STANFORD, Capt, USAF
Chief Commissioner

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

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| **UNITED STATES,** *Appellee,* | ) | **APPELLANT'S MOTION FOR ENLARGEMENT OF TIME (FIRST)** |
| v. | ) | Before Panel No. 2 |
| Technical Sergeant (E-6) **WARD W. FISCHER,** United States Air Force, *Appellant.* | ) | No. ACM 40786 |
| | ) | 25 April 2025 |

**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 a first enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of sixty days, which will end on **4 July 2025**. The record of trial was docketed with this Court on 6 March 2025. From the date of docketing to the present date, fifty days have elapsed. On the date requested, 120 days will have elapsed.

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

Respectfully submitted,

[redacted]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
[redacted]

**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 25 April 2025.

Respectfully submitted,

[redacted]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
[redacted]

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

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|---|---|---|
| **UNITED STATES**, *Appellee,* | ) | UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME |
| v. | ) | |
| | ) | Before Panel No. 2 |
| Technical Sergeant (E-6) **WARD W. FISCHER,** United States Air Force, *Appellant.* | ) | No. ACM 40786 |
| | ) | 28 April 2025 |

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

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

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

[redacted]
VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
[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 28 April 2025.

[redacted]
VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
[redacted]

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

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| **UNITED STATES,** *Appellee,* | ) | **APPELLANT'S MOTION FOR ENLARGEMENT OF TIME (SECOND)** |
| v. | ) | Before Panel No. 2 |
| Technical Sergeant (E-6) **WARD W. FISCHER,** United States Air Force, *Appellant.* | ) | No. ACM 40786 |
| | ) | 27 June 2025 |

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for a second enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **3 August 2025**. The record of trial was docketed with this Court on 6 March 2025. From the date of docketing to the present date, 113 days have elapsed. On the date requested, 150 days will have elapsed.

On 11–12 December 2024, a general court-martial consisting of a military judge alone at Joint Base Andrews, Maryland, found Appellant guilty, consistent with his pleas, of one charge with one specification of rape of a child, one specification sexual assault of a child, and four specifications of sexual abuse of a child, all in violation of Article 120b, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920b. R. at 175; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 21 January 2025. The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for 480 months, and a dishonorable discharge. R. at 351–52; EOJ. The convening authority took no action on the findings, approved the sentence in its entirety, and waived automatic forfeitures for a period of six months for the benefit of Appellant's dependents.

ROT Vol. 1, Convening Authority Decision on Action – *United States v. Technical Sergeant Ward F. Fischer*, 15 January 2025.

The electronic record of trial is fourteen volumes consisting of six prosecution exhibits, sixteen defense exhibits, one court exhibit, and seven appellate exhibits; the transcript is 352 pages. Appellant is currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was not advised of his right to a timely appeal, was not provided an update of the status of counsel's progress on Appellant's case, was not advised of this request for an enlargement of time, and has not expressed agreement or disagreement with this request for an enlargement of time.

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

Respectfully submitted,

[redacted]
FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
[redacted]

**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 27 June 2025.

Respectfully submitted,

[redacted]
FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
[redacted]

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

| | | |
|---|---|---|
| **UNITED STATES**, *Appellee,* | ) | UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME |
| v. | ) | |
| | ) | Before Panel No. 2 |
| Technical Sergeant (E-6) **WARD W. FISCHER,** United States Air Force, *Appellant.* | ) | No. ACM 40786 |
| | ) | 1 July 2025 |

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

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

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

[redacted]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
[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 1 July 2025.

[redacted]
VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
[redacted]

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

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| **UNITED STATES**<br>*Appellee,* | ) | **APPELLANT'S MOTION FOR ENLARGEMENT OF TIME (THIRD)** |
| v. | ) | Before Panel No. 2 |
| Technical Sergeant (E-6)<br>**WARD W. FISCHER,**<br>United States Air Force<br>*Appellant.* | ) | No. ACM 40786<br><br>24 July 2025 |

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for a third enlargement of time to file an Assignments of Error (AEO). Appellant requests an enlargement for a period of 30 days, which will end on **2 September 2025**. The record of trial was docketed with this Court on 6 March 2025. From the date of docketing to the present date, 140 days have elapsed. On the date requested, 180 days will have elapsed.

On 11–12 December 2024, a general court-martial consisting of a military judge alone at Joint Base Andrews, Maryland, found Appellant guilty, consistent with his pleas, of one charge with one specification of rape of a child, one specification sexual assault of a child, and four specifications of sexual abuse of a child, all in violation of Article 120b, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920b. R. at 175; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 21 January 2025. The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for 480 months, and a dishonorable discharge. R. at 351–52; EOJ. The convening authority took no action on the findings, approved the sentence in its entirety, and waived automatic forfeitures for a period of six months for the benefit of Appellant's dependents.

ROT Vol. 1, Convening Authority Decision on Action – *United States v. Technical Sergeant Ward W. Fischer*, 15 January 2025.

The electronic record of trial is fourteen volumes consisting of six prosecution exhibits, sixteen defense exhibits, one court exhibit, and seven appellate exhibits; the transcript is 352 pages. Appellant is currently confined.

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

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

[redacted]
JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

**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 Government Trial and Appellate Operations Division on 24 July 2025.

Respectfully Submitted,

[redacted]

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

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

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|---|---|---|
| **UNITED STATES**, *Appellee,* | ) | UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME |
| v. | ) | |
| | ) | Before Panel No. 2 |
| Technical Sergeant (E-6) **WARD W. FISCHER,** United States Air Force, *Appellant.* | ) | No. ACM 40786 |
| | ) | 25 July 2025 |

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

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

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

[redacted]
VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
[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 25 July 2025.

[redacted]
VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
[redacted]

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

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|---|---|---|
| **UNITED STATES**<br>*Appellee,*<br><br>v.<br><br>Technical Sergeant (E-6)<br>**WARD W. FISCHER,**<br>United States Air Force<br>*Appellant.* | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | **APPELLANT'S MOTION FOR ENLARGEMENT OF TIME (FOURTH)**<br><br>Before Panel No. 2<br><br>No. ACM 40786<br><br>25 August 2025 |

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for a fourth enlargement of time to file an Assignments of Error (AEO). Appellant requests an enlargement for a period of 30 days, which will end on **2 October 2025**. The record of trial was docketed with this Court on 6 March 2025. From the date of docketing to the present date, 172 days have elapsed. On the date requested, 210 days will have elapsed.

On 11–12 December 2024, a general court-martial consisting of a military judge alone at Joint Base Andrews, Maryland, found Appellant guilty, consistent with his pleas, of one charge with one specification of rape of a child, one specification sexual assault of a child, and four specifications of sexual abuse of a child, all in violation of Article 120b, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920b. R. at 175; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 21 January 2025. The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for 480 months, and a dishonorable discharge. R. at 351–52; EOJ. The convening authority took no action on the findings, approved the sentence in its entirety, and waived automatic forfeitures for a period of six months for the benefit of Appellant's dependents.

ROT Vol. 1, Convening Authority Decision on Action – *United States v. Technical Sergeant Ward W. Fischer*, 15 January 2025.

The electronic record of trial is 14 volumes consisting of 6 prosecution exhibits, 16 defense exhibits, 1 court exhibit, and 7 appellate exhibits; the transcript is 352 pages. Appellant is currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: undersigned counsel is currently assigned sixteen cases; fifteen of these cases are pending AOEs before this Court. Two cases have priority over the present case:

1. *United States v. Saul*, ACM No. 40341 – The record of trial contains 9 volumes consisting of 15 prosecution exhibits, 2 defense exhibits, and 51 appellate exhibits; the transcript is 1266 pages. SSgt Saul is not confined.
2. *United States v. Anderson*, ACM No. 40771 – The record of trial contains 1 volume consisting of 4 prosecution exhibits, 5 defense exhibits, and 4 appellate exhibits; the transcript is 125 pages. SSgt Anderson is confined.

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

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

Respectfully submitted,

[redacted]

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

**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 Government Trial and Appellate Operations Division on 25 August 2025.

Respectfully Submitted,

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel

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

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| **UNITED STATES**, *Appellee,* | ) | UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME |
| v. | ) | |
| | ) | Before Panel No. 2 |
| Technical Sergeant (E-6) **WARD W. FISCHER,** United States Air Force, *Appellant.* | ) | No. ACM 40786 |
| | ) | 25 August 2025 |

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

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

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

[redacted]
VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
[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 25 August 2025.

[redacted]
VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
[redacted]

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

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| **UNITED STATES,**<br>*Appellee,* | ) | **MOTION FOR WITHDRAWAL OF APPELLATE DEFENSE COUNSEL** |
| v. | ) | Before Panel No. 2 |
| Technical Sergeant (E-6)<br>**WARD W. FISCHER,**<br>United States Air Force,<br>*Appellant.* | ) | No. ACM 40786<br><br>18 August 2025 |

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

Pursuant to Rules 12(b), 12.4, and 23.3(h) of this Honorable Court's Rules of Practice and Procedure, undersigned counsel respectfully requests to withdraw as counsel in the above-captioned case. Major Frederick Johnson is no longer detailed under Article 70, Uniform Code of Military Justice, to represent Appellant. Captain Joshua Lopes has been detailed as substitute appellate military counsel in undersigned counsel's stead and made her notice of appearance on 24 July 2025. Counsel have completed a thorough turnover of the record.

Appellant has been advised of this motion to withdraw as counsel and consents to undersigned counsel's withdrawal. A copy of this motion will be delivered to Appellant following its filing.

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

Respectfully submitted,

[redacted]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
[redacted]

**CERTIFICATE OF FILING AND SERVICE**

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

Respectfully Submitted,

[redacted]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
[redacted]

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

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| **UNITED STATES**<br>*Appellee,* | ) | **APPELLANT'S MOTION FOR ENLARGEMENT OF TIME (FIFTH)** |
| v. | ) | Before Panel No. 2 |
| Technical Sergeant (E-6)<br>**WARD W. FISCHER,**<br>United States Air Force<br>*Appellant.* | ) | No. ACM 40786<br><br>22 September 2025 |

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

Pursuant to Rules 23.3(m)(4) and (6) of this Honorable Court's Rules of Practice and Procedure, Technical Sergeant Ward. W. Fischer (Appellant) hereby moves for a fifth enlargement of time to file an assignments of error brief (AEO). Appellant requests an enlargement for a period of 30 days, which will end on **1 November 2025**. The record of trial was docketed with this Court on 6 March 2025. From the date of docketing to the present date, 200 days have elapsed. On the date requested, 240 days will have elapsed.

On 11–12 December 2024, a general court-martial consisting of a military judge alone at Joint Base Andrews, Maryland, found Appellant guilty, consistent with his pleas, of one charge with one specification of rape of a child, one specification sexual assault of a child, and four specifications of sexual abuse of a child, all in violation of Article 120b, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920b. R. at 175; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 21 January 2025. The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for 480 months, and a dishonorable discharge. R. at 351–52; EOJ. The convening authority took no action on the findings, approved the sentence in its entirety, and waived automatic forfeitures for a period of six months for the benefit of Appellant's dependents.

ROT Vol. 1, Convening Authority Decision on Action – *United States v. Technical Sergeant Ward W. Fischer*, 15 January 2025.

The electronic record of trial is 14 volumes consisting of 6 prosecution exhibits, 16 defense exhibits, 1 court exhibit, and 7 appellate exhibits; the transcript is 353 pages. Appellant is currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: undersigned counsel is currently assigned twenty-two cases; seventeen of these cases are pending briefs before this Court. Two cases have priority over the present case:

1. *United States v. Saul*, ACM No. 40341 – The record of trial contains 9 volumes consisting of 15 prosecution exhibits, 2 defense exhibits, and 51 appellate exhibits; the transcript is 1266 pages. Counsel is currently working on appellant's brief, which is due on 15 October 2025.
2. *United States v. Johnson*, USCA Dkt. No. 25-0202/AF – The appellant's brief was filed on 17 September 2025. Undersigned counsel is currently preparing for the Government's answer and anticipates submitting a reply brief in October 2025.

Since requesting Appellant's previous enlargement of time, undersigned counsel was detailed to *United States v. Johnson*, USCA Dkt. No. 25-0202/AF, reviewed the record of trial, and completed and filed a brief for *Johnson*. Additionally, undersigned counsel reviewed the record of trial for *United States v. Saul*, ACM No. 40341, and began preparing a brief for *Saul*. Also, undersigned counsel attended the Military Justice Law and Policy Division's Preliminary Hearing Officer-Legal Advisor Training Course. Finally, undersigned counsel was out of the office from 30 August-1 September 2025 due to the federal holiday.

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

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

Respectfully submitted,

[redacted]

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

**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 Government Trial and Appellate Operations Division on 22 September 2025.

Respectfully Submitted,

[redacted]

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

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

| | | |
|---|---|---|
| **UNITED STATES**, *Appellee,* | ) | UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME |
| v. | ) | |
| | ) | Before Panel No. 2 |
| Technical Sergeant (E-6) **WARD W. FISCHER,** United States Air Force, *Appellant.* | ) | No. ACM 40786 |
| | ) | 22 September 2025 |

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its 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]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
[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 22 September 2025.

[redacted]
VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
[redacted]

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

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| **UNITED STATES**<br>*Appellee,* | ) | **APPELLANT'S MOTION FOR ENLARGEMENT OF TIME (SIXTH)** |
| v. | ) | Before Panel No. 2 |
| Technical Sergeant (E-6)<br>**WARD W. FISCHER,**<br>United States Air Force<br>*Appellant.* | ) | No. ACM 40786<br><br>22 October 2025 |

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

Pursuant to Rules 23.3(m)(1), (4), and (6) of this Honorable Court's Rules of Practice and Procedure, Technical Sergeant Ward. W. Fischer (Appellant) hereby moves for a sixth enlargement of time to file an assignments of error brief (AEO). Appellant requests an enlargement for a period of 30 days, which will end on **1 December 2025**. The record of trial was docketed with this Court on 6 March 2025. From the date of docketing to the present date, 230 days have elapsed. On the date requested, 270 days will have elapsed.

On 11–12 December 2024, a general court-martial consisting of a military judge alone at Joint Base Andrews, Maryland, found Appellant guilty, consistent with his pleas, of one charge with one specification of rape of a child, one specification sexual assault of a child, and four specifications of sexual abuse of a child, all in violation of Article 120b, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920b. R. at 175; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 21 January 2025. The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for 480 months, and a dishonorable discharge. R. at 351–52; EOJ. The convening authority took no action on the findings, approved the sentence in its entirety, and waived automatic forfeitures for a period of six months for the benefit of Appellant's dependents.

ROT Vol. 1, Convening Authority Decision on Action – *United States v. Technical Sergeant Ward W. Fischer*, 15 January 2025.

The electronic record of trial is 14 volumes consisting of 6 prosecution exhibits, 16 defense exhibits, 1 court exhibit, and 7 appellate exhibits; the transcript is 353 pages. Appellant is currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: undersigned counsel is currently assigned twenty-four cases; eighteen of these cases are pending briefs before this Court. Two cases have priority over the present case:

1. *United States v. Marschalek*, ACM No. S32776 – Oral argument for this case is scheduled for 29 October 2025. Undersigned counsel is currently preparing to deliver oral argument on behalf of the appellant.
2. *United States v. Johnson*, USCA Dkt. No. 25-0202/AF – The appellant's brief was filed on 17 September 2025. Undersigned counsel is currently preparing for the Government's answer and anticipates submitting a reply brief in November 2025.

Since requesting Appellant's previous enlargement of time, undersigned counsel was detailed to *United States v. Marschalek*, ACM No. S32776, reviewed the previously filed briefs, and began preparing to deliver oral argument on 29 October 2025. Additionally, undersigned counsel prepared and filed a brief for *United States v. Saul*, ACM No. 40341. Undersigned counsel also completed a review of the record of trial in *United States v. Anderson*, ACM No. 40771, and filed a motion to withdraw from appellate review on behalf of the appellant. Undersigned counsel also attended the Joint Appellate Advocacy Training from 25-26 September 2025.

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

counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was advised of this request for an enlargement of time, and has expressed agreement with necessary requests for enlargements of time, to include this request.

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

Respectfully submitted,

[redacted]

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

**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 Government Trial and Appellate Operations Division on 22 October 2025.

Respectfully Submitted,

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

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

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| **UNITED STATES**,<br>*Appellee,*<br><br>v.<br><br>Technical Sergeant (E-6)<br>**WARD W. FISCHER,**<br>United States Air Force,<br>*Appellant.* | ) | UNITED STATES' GENERAL OPPOSITION TO APPELLANT'S MOTION FOR ENLARGEMENT OF TIME<br><br>Before Panel No. 2<br><br>No. ACM 40786<br><br>23 October 2025 |

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its 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]

KATE E. LEE, Maj, USAF
Appellate Government Counsel
[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 October 2025.

KATE E. LEE, Maj, USAF
Appellate Government Counsel
[redacted]

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

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| **UNITED STATES**<br>*Appellee,*<br><br>v.<br><br>Technical Sergeant (E-6)<br>**WARD W. FISCHER,**<br>United States Air Force<br>*Appellant.* | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | **APPELLANT'S MOTION FOR ENLARGEMENT OF TIME (SEVENTH)**<br><br>Before Panel No. 2<br><br>No. ACM 40786<br><br>24 November 2025 |

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

Pursuant to Rules 23.3(m)(1), (4), and (6) of this Honorable Court's Rules of Practice and Procedure, Technical Sergeant Ward. W. Fischer (Appellant) hereby moves for a seventh enlargement of time to file an assignments of error brief (AEO). Appellant requests an enlargement for a period of 30 days, which will end on **31 December 2025**. The record of trial was docketed with this Court on 6 March 2025. From the date of docketing to the present date, 263 days have elapsed. On the date requested, 300 days will have elapsed.

On 11–12 December 2024, a general court-martial consisting of a military judge alone at Joint Base Andrews, Maryland, found Appellant guilty, consistent with his pleas, of one charge with one specification of rape of a child, one specification sexual assault of a child, and four specifications of sexual abuse of a child, all in violation of Article 120b, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920b. R. at 175; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 21 January 2025. The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for 480 months, and a dishonorable discharge. R. at 351–52; EOJ. The convening authority took no action on the findings, approved the sentence in its entirety, and waived automatic forfeitures for a period of six months for the benefit of Appellant's dependents.

ROT Vol. 1, Convening Authority Decision on Action – *United States v. Technical Sergeant Ward W. Fischer*, 15 January 2025.

The electronic record of trial is 14 volumes consisting of 6 prosecution exhibits, 16 defense exhibits, 1 court exhibit, and 7 appellate exhibits; the transcript is 353 pages. Appellant is currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: undersigned counsel is currently assigned twenty-four cases; nineteen of these cases are pending briefs before this Court. Appellant's case is undersigned counsel's current priority. Undersigned counsel has completed review of Appellant's record of trial and is currently preparing an AOE on Appellant's behalf.

Since requesting Appellant's previous enlargement of time, undersigned counsel prepared and filed a reply brief in *United States v. Johnson*, USCA Dkt. No. 25-0202/AF and delivered an oral argument for *United States v. Marschalek*, ACM No. S32776. Undersigned counsel also completed a review of the record of trial in *United States v. Shimizu*, ACM No. 40750, and filed a motion to withdraw from appellate review on behalf of the appellant.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow undersigned counsel to complete an AOE on Appellant's behalf. Appellant was advised of his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was advised of this request for an enlargement of time, and has expressed agreement with necessary requests for enlargements of time, to include this request.

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

Respectfully submitted,

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

**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 Government Trial and Appellate Operations Division on 24 November 2025.

Respectfully Submitted,

[redacted]

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

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

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| **UNITED STATES**, | ) | UNITED STATES' |
| | ) | OPPOSITION TO |
| *Appellee,* | ) | APPELLANT'S MOTION FOR |
| | ) | ENLARGEMENT OF TIME |
| v. | ) | |
| | ) | Before Panel No. 2 |
| Technical Sergeant (E-6) | ) | |
| **WARD W. FISCHER**, | ) | No. ACM 40786 |
| United States Air Force. | ) | |
| *Appellant* | ) | 26 November 2025 |

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

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

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

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

[redacted]
VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
[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 26 November 2025.

[redacted]
VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
[redacted]

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

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| **UNITED STATES**<br>*Appellee*<br>v.<br>Technical Sergeant (E-6)<br>**WARD W. FISCHER**<br>United States Air Force<br>*Appellant* | **BRIEF ON BEHALF OF APPELLANT**<br>Before Panel No. 2<br>No. ACM 40786<br>22 December 2025 |

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

## ASSIGNMENTS OF ERROR

**I. Whether Technical Sergeant Fischer's sentence exceeded the limitations of the plea agreement.**

**II. Whether Technical Sergeant Fischer's sentence to 480 months of confinement is inappropriately severe.**

## STATEMENT OF STATUTORY JURISDICTION

Technical Sergeant (TSgt) Ward W. Fischer's approved sentence includes a dishonorable discharge and confinement for more than two years. Accordingly, this Court has jurisdiction pursuant to Article 66(b)(3), Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 866(b)(3).

## STATEMENT OF THE CASE

A military judge sitting as a general court-martial convicted TSgt Fischer, pursuant to his pleas, of one charge with one specification of rape of a child, one specification of sexual assault of a child, and four specifications of sexual abuse of a child, all in violation of Article 120b, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920b. R. at 175; Entry of Judgment (EOJ), 21 January 2025. The military judge sentenced TSgt Fischer to a reprimand, reduction to the grade of E-1, confinement for 480 months, and a dishonorable discharge. R. at 351-52; EOJ. The convening authority took no action on the findings, approved the sentence in its entirety, and

waived automatic forfeitures for a period of six months for the benefit of TSgt Fischer's dependents. Convening Authority Decision on Action – *United States v. Technical Sergeant Ward W. Fischer*, 15 January 2025.

## STATEMENT OF FACTS

### A. TSgt Fischer's Military Career.

TSgt Fisher enlisted on 7 August 2007. Def. Ex. Q at 2. Throughout his career, TSgt Fischer won numerous awards, received favorable performance reports, and served in various roles to further the Air Force mission, such as a cyber analyst for the North Atlantic Treaty Organization, the noncommissioned officer in charge of three MQ-9 Reaper intelligence support flights, base Honor Guard, and squadron Resource Advisor. *Id.* at 2-3. TSgt Fischer also served overseas on numerous occasions including deployments to Al-Udeid Air Base, Qatar, and Camp Film City, Kosovo. Pros. Ex. 4.

### B. Allegation and Confession to AFOSI.

In May 2023, while TSgt Fischer was deployed to Kosovo, his daughter, D.F., told her mother, H.F., that TSgt Fischer had sexually abused her. Pros. Ex. 2. at 2. After interviewing with the Air Force Office of Special Investigations (AFOSI), H.F. engaged in a pretextual text message conversation with TSgt Fischer where he admitted to the abuse. *Id.* at 4.

While deployed, TSgt Fischer confessed to two different spiritual advisors and agreed to self-report to the authorities as part of his repentance process. *Id.* at 5. TSgt Fischer participated in an interview with AFOSI, answered all questions, provided a written statement, and confessed to his offenses. *Id.*

### C. TSgt Fischer's Rehabilitative Potential.

During the presentencing hearing, TSgt Fischer made an unsworn statement where he apologized to D.F. and his family. Def. Ex. Q at 2, 3-4. He also thanked the Air Force for taking

care of his family following his actions. *Id.* In addition to his apology, TSgt Fischer outlined the clinical evaluations and behavioral therapy programs he participated in after he confessed to his misconduct. *Id.* at 4-6. TSgt Fischer discussed the improvements being made through his behavioral therapy and medication treatment. *Id.* He concluded his unsworn statement by outlining his two goals of continuing his recovery and rehabilitative efforts and providing monetary support for his family, from a distance. *Id.* at 6.

In addition to his unsworn statement, TSgt Fischer presented character letters from individuals with knowledge of his misconduct and his character who believe he is capable of being rehabilitated. One of the letters was from the Director of Air Force Pentagon Services, who believed so strongly in TSgt Fischer's rehabilitative efforts and potential that he stated:

> I am aware of the allegations against TSgt Ward Fischer, and I believe he is working hard to rehabilitate and is having a lot of success in the programs he has attended. I think he could continue to contribute a lot to the Air Force and society starting now. If he is getting out of the military, I would be willing to hire him as a civilian in my section.

Def. Ex. B.

**D. TSgt Fischer's Guilty Plea.**

TSgt Fischer entered into a plea agreement with the Government. App. Ex. V. TSgt Fischer agreed to plead guilty to six specifications of sexual offenses against D.F. EOJ; R. at 19-20; Charge Sheet. One specification addressed five acts that occurred in a two-week span in 2013. R. at 48-49, 92, 101. One specification addressed one act that occurred in 2020. R. at 107. The remaining three specifications addressed three acts that occurred on the same day in 2021. R. at 132-133, 140. Pursuant to the plea agreement, the Government withdrew and dismissed three specifications of sexual offenses against D.F. and agreed to waive automatic forfeitures for the benefit of TSgt Fischer's dependents for a period of up to six months. App. Ex. V.

The plea agreement also included the following provision:

[TSgt Fischer agrees] that the military judge must, upon acceptance of [his] guilty plea, enter a sentence subject to the following limitations:

a. To Specification 1 of the Charge:
Maximum confinement: 180 months of confinement
Minimum confinement: 120 months of confinement

b. To Specification 4 of the Charge:
Maximum confinement: 84 months of confinement
Minimum confinement: 36 months of confinement

c. To Specification 5 of the Charge:
Maximum confinement: 84 months of confinement
Minimum confinement: 36 months of confinement

d. To Specification 6 of the Charge:
Maximum confinement: 60 months of confinement
Minimum confinement: 24 months of confinement

e. To Specification 7 of the Charge:
Maximum confinement: 36 months of confinement
Minimum confinement: 12 months of confinement

f. To Specification 8 of the Charge:
Maximum confinement: 36 months of confinement
Minimum confinement: 12 months of confinement

g. All confinement terms are to run consecutively; and

h. A Dishonorable Discharge.

*Id.* at 2-3. The plea agreement did not include a clause stating the military judge was permitted to adjudge additional sentence terms beyond these limitations, or words to that effect. *Id.* At trial, the Government agreed that TSgt Fischer saved the Air Force the time and expense of a litigated trial by pleading guilty. Pros. Ex. 2 at 8. Ultimately, the military judge sentenced TSgt Fischer to a reprimand, reduction to the grade of E-1, confinement for 480 months, and a dishonorable discharge. R. at 351-52; EOJ.

## ARGUMENT

### I. Technical Sergeant Fischer's sentence exceeded the limitations of the plea agreement.

#### A. Standard of review.

The interpretation of a plea agreement is a question of law reviewed de novo. *United States v. Acevedo*, 50 M.J. 169, 172 (C.A.A.F. 1999) (citing *United States v. Van Thournout*, 100 F.3d 590, 594 (8th Cir. 1996); *United States v. Coleman*, 895 F.2d 501, 505 (8th Cir. 1990)).

#### B. The plea agreement is unambiguous – nothing beyond confinement and a dishonorable discharge was authorized.

TSgt Fischer's plea agreement expressly limited the sentencing options to confinement and a dishonorable discharge. App. Ex. V at 2-3. Despite this, the military judge adjudged a sentence that included a reprimand and a reduction from E-6 to E-1. R. at 351-52; EOJ.

When the terms of a contract are unambiguous, the intent of the parties is discerned from the four corners of the contract. *Acevedo*, 50 M.J. at 172 (citing *United States v. Liranzo*, 944 F.2d 73, 77 (2d Cir. 1991)).

The plain language of TSgt Fischer's plea agreement is unambiguous. The agreement states that "the military judge *must*, upon acceptance of [the] guilty plea, enter a sentence subject to the following *limitations*." App. Ex. V at 2-3 (emphasis added). Limitation means "a restriction." *Limitation*, BLACK'S LAW DICTIONARY (11th ed. 2019). In the context of a contract, a limitation clause means "a contract term that restricts the rights of the parties." *Limitation clause*, BLACK'S LAW DICTIONARY. The listed limitations included a confinement range for each specification and a dishonorable discharge. App. Ex. V at 2-3. The agreement did not refer to these limitations as a minimum and did not include language stating the military judge was permitted to adjudge additional sentence components, such as a reprimand or a reduction in grade, beyond the listed

limitations. The adjudged reprimand and reduction in grade from E-6 to E-1 exceeded the restriction imposed on the military judge for sentencing.

### C. Assuming the plea agreement is ambiguous, extrinsic evidence demonstrates that nothing beyond confinement and a dishonorable discharge was authorized.

"When the contract is ambiguous on its face because a provision is open to more than one interpretation, extrinsic evidence is admissible to determine the meaning of the ambiguous term." *Acevedo*, 50 M.J. at 172 (citing *United States v. Ingram*, 979 F.2d 1179, 1184 (7th Cir. 1992)). If this Court finds that TSgt Fischer's plea agreement is ambiguous, the military judge's plea colloquy with TSgt Fischer and the parties' sentencing arguments support the conclusion that the military judge was not permitted to adjudge a reprimand or reduction in grade.

The military judge discussed paragraph 4 of TSgt Fischer's plea agreement on the record. R. at 165-68; App. Ex. V at 2. The military judge told TSgt Fischer that "paragraph 4 and its sub paragraphs describe the limitations on the minimum and maximum sentence which I must, upon acceptance of your guilty plea, enter." *Id.* The military judge later said, "If I accept your plea agreement, the court and the parties, to include you, will be bound by the terms of the agreement to include imposing a sentence that comports with the limitations contained in the agreement; specifically, the limitations contained in paragraph 4a through h." Paragraph 4a through h only include confinement range and a dishonorable discharge; a reprimand and reduction in grade are not contained within the agreement. App. Ex. V at 2. The military judge never told TSgt Fischer he could be adjudged additional sentence terms that exceeded the limitations in the plea agreement or that were discussed on the record.

During the Government's sentencing argument, trial counsel did not argue for a reprimand or reduction in grade. R. at 315-29. Instead, trial counsel's argument was limited to the confinement range specifically included in the plea agreement. *Id.*; App. Ex. V at 2-3. This

argument shows the Government's understanding that the only sentence option subject to the military judge's deliberations was the confinement range. Similar to trial counsel, trial defense counsel only discussed the confinement range outlined in the plea agreement during the defense sentencing argument and did not address the possibility of a reprimand or reduction in grade. R. at 329-46.

Further, during its sentencing argument, the defense highlighted that TSgt Fischer pushed for a term in his plea that the Government would waive forfeitures for the benefit of his dependents. *Id.* at 339. This term was captured in paragraph 3d of the plea agreement. App. Ex. V at 2. By reducing TSgt Fischer from E-6 to E-1, the military judge deprived TSgt Fischer's dependents, to include D.F., of approximately $16,000.[1] "[W]hen a plea rests in any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of the inducement or consideration, such promise must be fulfilled." *Santobello v. New York*, 404 U.S. 257, 262 (1971). Even if this Court finds the sentence limitations portion of the plea agreement ambiguous, TSgt Fischer's stated interest in preserving as much financial support as possible for his dependents is extrinsic evidence that he did not agree to a plea which authorized a reduction in grade that would significantly reduce the financial support his dependents would receive.

Trial defense counsel did not challenge the military judge's sentence after it was announced and did not address the reprimand or reduction in grade in TSgt Fischer's post-trial matters. However, "[w]hen a court exceeds a sentencing limitation, it is plain error." *United States v. Urbonas*, 2021 CCA LEXIS 175, *4-5. TSgt Fischer did not intend to enter a plea agreement that allowed the military judge to impact the financial support available to his dependents. The military

[1] Amount calculated based on the difference of basic pay between a E-6 and E-1 with over sixteen years of cumulative service. See Defense Finance and Account Service military pay tables, https://www.dfas.mil/MilitaryMembers/payentitlements/Pay-Tables/Basic-Pay/EM/.

judge's sentence to a reduction to E-1 undermined this specific interest and exceeded the restrictions TSgt Fischer and the Convening Authority agreed to regarding the potential sentence.

For the foregoing reasons, TSgt Fischer respectfully requests this Court set aside the parts of his sentence that include a reprimand and a reduction in grade to E-1 because these parts exceeded the sentence TSgt Fischer was promised.

## II. TSgt Fischer's adjudged sentence is inappropriately severe.

### A. Standard of review.

Sentence appropriateness is reviewed de novo. *United States v. Lane*, 64 M.J. 1, 2 (C.A.A.F. 2006).

### B. This Court has the authority to find TSgt Fischer's sentence is inappropriately severe.

This Court's authority to evaluate sentence appropriateness in TSgt Fischer's case is guided by Article 66(d)(1), UCMJ, 10 U.S.C. § 866(d)(1) (2018). Under Article 66(d)(1), UCMJ, this Court "may affirm only such findings of guilty, and 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)(1). Fundamentally, this means this Court must "determine whether it finds the sentence to be appropriate." *United States v. Flores*, 84 M.J. 277, 280-81 (C.A.A.F. 2024) (citation omitted).

This Court has "broad discretion to determine whether a sentence should be approved, a power that has no direct parallel in the federal civilian sector." *United States v. Behunin*, 83 M.J. 158, 161 (C.A.A.F. 2023) (citation modified). And while this Court is not authorized to engage in exercises of clemency, *United States v. Sauk*, 74 M.J. 594, 606 (A.F. Ct. Crim. App. 2015) (en banc), it is required to "do justice." *United States v. Nerad*, 69 M.J. 138, 146 (C.A.A.F. 2010). 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. Anderson*, 67 M.J. 703, 705 (A.F. Ct. Crim. App. 2009). This Court also takes into consideration "uniformity and evenhandedness of sentencing decisions." *United States v. Sothen*, 54 M.J. 294, 296 (C.A.A.F. 2001).

**C. The adjudged confinement is inappropriately severe.**

TSgt Fischer's sentence to 480 months of confinement is inappropriately severe considering his service record, the particular circumstances of his offense, his post-offense rehabilitative efforts, and his future rehabilitative potential.

TSgt Fischer's record of service exhibits a dedicated airman who focused on volunteering, joint service in support of overseas operations, and leading Intelligence operations. Def. Exs. E-J, Q. TSgt Fischer also deployed and served remote tours on multiple occasions. Pros. Ex. 4. Prior to this case, in his seventeen years of honorable service, TSgt Fischer never received administrative or punitive, disciplinary action. *Id.* Considering his record of service, 480 months of confinement is inappropriately severe.

Confinement for 480 months is also inappropriately severe when considering the nature and circumstances of this case. Understanding sexual offenses against a child are serious, TSgt Fischer's offenses did not involve vaginal sexual intercourse or the use of force, threats, or intimidation. EOJ; Charge Sheet; Pros. Ex. 2. Additionally, while the charged timeframe spans over ten years, the offenses in this case were not continuous or ongoing.

Five of the nine sexual acts TSgt Fischer was convicted of occurred over a two-week time span in 2013. R. at 48-49, 92, 101. Seven years passed without another incident occurring. R. at 107. The remaining three offenses occurred in a single day in 2021. R. at 132-133, 140. TSgt Fischer received 264 months of confinement for the acts that occurred in 2013, 60 months of confinement for the single instance in 2020, and 156 months of confinement for the three offenses

that occurred on the same day in 2021. EOJ. The length of the adjudged confinement is inappropriately severe in this case considering many of the offenses occurred during the same transaction or in close temporal proximity and did not involve vaginal or anal penetration, or the viewing or production of child pornography.

While the 480 months of confinement adjudged was within the range permitted under the plea agreement, the military judge also included a reprimand and a reduction to E-1 even though these sentence terms were not permitted under the plea agreement. This decision casts doubt on whether the military judge gave due care to the details of TSgt Fischer's case rather than simply adjudging the maximum confinement term authorized.

Beyond the nature and seriousness of the offenses, TSgt Fischer's post-allegation conduct demonstrates remorse and rehabilitative potential. After returning from deployment, TSgt Fischer voluntarily went to the Air Force Office of Special Investigations to confess for his actions. Pros. Ex. 2, Attachments 6 and 7. TSgt Fischer pleaded guilty to take responsibility for his actions, to avoid causing more harm to his daughter and family, and to maximize the amount of financial support his family would receive after his conviction. Def. Ex. Q at 6; R. at 339. In addition to cooperating with law enforcement, pleading guilty, and apologizing to all affected by his actions, TSgt Fischer sought extensive mental health and behavioral treatment to address his conduct. Def. Exs. L, M, N, and Q at pages 3-6. All of these actions demonstrate an individual focused on rehabilitation and a commitment to refrain from misconduct in the future.

This Court should reassess the sentence in consideration of TSgt Fischer's service record, the particular circumstances of his offenses, and his rehabilitative efforts and reduce the term of confinement from 480 months to 240 months.

Respectfully submitted,

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were electronically delivered to the Court and served on the Air Force Government Trial and Appellate Operations Division on 22 December 2025.

[redacted]

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

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

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| **UNITED STATES**,<br>*Appellee,* | ) | ANSWER TO ASSIGNMENTS OF ERROR |
| v. | ) | Before Panel No. 2 |
| Technical Sergeant (E-6)<br>**WARD W. FISCHER**<br>United States Air Force<br>*Appellant.* | ) | No. ACM 40786<br><br><br>21 January 2026 |

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

## ISSUES PRESENTED

**I.**

**WHETHER APPELLANT'S SENTENCE EXCEEDED THE LIMITATIONS OF THE PLEA AGREEMENT**

**II.**

**WHETHER APPELLANT'S SENTENCE TO 480 MONTHS OF CONFINEMENT IS INAPPROPRIATELY SEVERE**

## STATEMENT OF CASE

Appellant was convicted by a military judge in a general court-martial, pursuant to his pleas, of one charge and specification of rape of a child, one specification of sexual assault of a child, and four specifications of sexual abuse of a child, in violation of Article 120b, Uniform Code of Military Justice (UCMJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, 480 months of confinement, and a dishonorable discharge. (*Entry of Judgment*, Record of Trial (ROT), Vol. 1.) .

## STATEMENT OF FACTS[1]

### *Facts*

***CHARGE I: Specification 1, Violation of the UCMJ, Article 120b[2]***
*(Appellant penetrating DF's mouth between on or about 5 May 2013 and on or about 31 July 2016)*

*First Incident*

In 2005, Appellant married his wife, HF. (Pros. Ex. 2 at 1.) In January 2008, their daughter DF was born. (Id.) In February 2013, Appellant and his family PCS'd to Vogelweh, Germany where he was assigned to Ramstein Air Base Germany. (R. at 45-47.) Between on or about April or May 2013, in the living room of their home, DF, who was five years old, asked Appellant for assistance with the television. (Pros. Ex. 2 at 5; R. at 41.) Appellant then asked DF if she wanted to "perform oral gratification on him" or words to that effect. (R. at 41-42.) When asked by the military judge to clarify the precise words used, Appellant expressed difficulty remembering but testified, "upon consulting the OSI investigation, the words I used were, 'kissing my penis and sucking my penis.'" (R. at 85.) Appellant then penetrated DF's mouth with his penis for 30 seconds. (R. at 42-44.) In the Stipulation of Fact, Appellant stated that he also "massaged" DF's vagina—a fact Appellant omitted during his plea colloquy. (Pros. Ex. 2 at 5.) Appellant confirmed he intentionally penetrated DF's mouth. (R. at 46.) DF was five years old and Appellant was 31. (R. at 38; R. at 51.)

*Second Incident*

A week later, according to Appellant, he woke up to DF in his bedroom performing "oral gratification on [him], and [he] didn't stop her." (Pros. Ex. 2 at 5: R. at 48.) Appellant testified

[1] The offenses within the Statement of Facts are presented chronologically.
[2] (*EoJ*, (ROT), Vol. 1)

this act lasted for "minute or two" and DF eventually left on her own accord. (R. at 48.) When asked how he remembered when the incident occurred, Appellant stated:

> Because I remember hating when I was doing this. I remember that it was after I was trying to stop with pornography masturbation because it was against my faith, and I know that it didn't last very long because I came to the conclusion after the third event that what I was doing with my daughter was worse than pornography masturbation, so I [] continued with the pornography masturbation to stop.

(R. at 49.) Appellant confirmed that he knew it was DF because he looked down, saw her, and deliberately choose not to remove his penis from her mouth. (R. at 51-60.) Appellant testified he wanted DF to continue. (R. at 60.)

*Third Incident*

Approximately a week later, Appellant penetrated DF's mouth again in her bedroom. (R. at 61-62; R. at 67.) Appellant testified this encounter lasted for "about 5 or 30 seconds,"[3] but longer than the other two incidents. (R. at 68.) Appellant confirmed he was erect when he penetrated DF's mouth. (R. at 69.) Appellant testified:

> I wasn't able to regain control like I had the other two, and I started to rub myself while she was performing oral gratification; and then I felt myself beginning to climax or ejaculate, and so I pulled out of her mouth and ejaculated in or around my hand or [] thought [inaudible], Your Honor.

R. at 61.) Appellant also testified, "so I started to [stroke] myself . . . then she reached out and pulled my hand away and started doing [it] herself." (Pros. Ex. 2 at 5; R. at 69.) Appellant ejaculated in DF's mouth. (Pros. Ex. 2 at 5; Pros. Ex. 2 at 45.) Appellant confirmed that he

[3] Compare with Appellant's written statement in Air Force Form 1168: "I massaged her vagina and she sucked my penis for about *5 minutes* before she asked to stop which I did. The third time was in my bedroom . . . where I did not stop her. That lasted *4-5 minutes* . . .." (Pros. Ex. 2 at 45.)

could have satisfied his desires through pornography and masturbation but declined. (R. at 65; R. at 71.) DF was five years old and Appellant was 31. (R. at 62.)

***CHARGE I: Specification 5, Violation of the UCMJ, Article 120b***
*(Appellant touching DF'S genitalia on two separate incidents between on or about 5 May 2013 and on or about 31 July 2016)*

*First Incident*

Between on or about 5 May 2013 and on or about 31 July 2016, Appellant walked into the living room and observed his three year old son and five year old daughter, DF, naked on the couch, touching each other. (Pros. Ex. 2 at 6; R. at 92; R. at 96.) Appellant told them to stop, but later that night, while tucking DF into bed, Appellant asked DF, "if she wanted to do that with [him]" or "if she wanted to do the same thing with me that she was doing with [her brother]." (R. at 92; R. at 95-97.) Appellant testified that he then "touched [DF] on the vulva and she touched [his] penis . . . ." (Pros Ex. 2 at 5; R. at 92; R. at 97.) Appellant testified that this encounter lasted "between 30 seconds and five minutes." (Id.) Appellant later clarified that the encounter lasted for one minute. (R. at 99.) Appellant confirmed his actions were intentional with the intent to gratify his sexual desire. (Id.)

*Second Incident*

A few days later, Appellant "massaged" DF's genitalia in their living room. (Pros. Ex. 2. at 6; R. at 102-103.) During the plea colloquy, Appellant initially expressed difficulty in recalling this incident, but upon questioning from the military judge, Appellant testified, "The snapshot is [DF's] waist, [DF's] panty lines, [DF's] legs, and [his] hand." (R. at 103.) Appellant then confirmed touching DF's vulva for 30 seconds. (Id.) Appellant testified his actions were intentional with the intent to gratify his sexual desire. (R. at 105.) DF was five years old. (R. at 102.)

***CHARGE I: Specification 6, Violation of the UCMJ, Article 120b***
*(Appellant touching DF's vulva in his parent's house)*

Seven years later, in his parent's home near Sun City West, Arizona, between on or about 1 November 2020 and on or about 20 December 2020,[4] Appellant touched DF's genitalia again. (R. at 108.) During the plea colloquy, Appellant testified:

> So I walked into the room that we were using for her temporary bedroom. She was lying on the cot. I was tucking her in. She was naked, and as I was touching her, my hand went to her genitals. And it shocked me because I thought I wasn't -- I was past this, and I remember trying to [] understand what was going on. I needed time to kick-start my brain and found myself thinking again, I asked her if she was enjoying this, and she said, no. And I was thankful that she said no because I was able to use that to stop, and that lasted for about five seconds or so.

(R. at 108.) During this sexual assault, DF was 12 years old and Appellant was 38. (R. at 112.) When asked to clarify why his hand went to her genitals, Appellant testified:

> So when I was tucking her in, I was moving my hands across with the sheets, and then I -- the next thing I knew, my hands on were on her genitals. I don't remember trying to put it there. I just remember that it was there, and it shocked me that it was there because I thought I was past this aspect of it, and I was -- I was trying to [] grasp the understanding of what was going on, Your Honor.

(R. at 113.) Appellant confirmed that he deliberately placed his hand on DF's genitals for his sexual gratification. (R. at 114-116.) Appellant also testified that his conduct was intentional because he immediately asked DF if she enjoyed it. (R. at 116.)

***CHARGE I: Specification 4, Violation of the UCMJ, Article 120b***
*(Appellant penetrating DF's vulva with his finger)*

A few months later, near Saint Neots, United Kingdom, between on or about 25 February 2021 and on or about 1 July 2023, Appellant penetrated DF's vulva with his finger. (R. at 118.)

[4] Appellant clarified the incident actually occurred on or about 30 December 2020. (R. at 110-111.)

According to Appellant, while he was sitting at the computer playing a video game, DF walked in and sat next to him wearing *only* a shirt.[5] (R. at 119; R. at 122.) Appellant testified that he asked DF "if she wanted to do something" and she agreed, so he "massaged" her vulva for five minutes. (Id.) Appellant confirmed that he intended to gratify his sexual desires by posing the question to DF and that "[he] might have had [his] hand already starting to massage [DF's] vulva when [he] asked [DF] that question. (R. at 123-127.) Appellant then "went slightly deeper or closer to her vagina," but DF told him, "Don't do that." (Id.) Appellant testified that he stopped as soon as DF said she no longer wanted to continue. (Id.) DF was thirteen years old. (R. at 121.)

***CHARGE I: Specification 7, Violation of the UCMJ, Article 120b***
*(Appellant licking DF's left nipple)*

Shortly thereafter, on the same day, after DF told Appellant not to touch her vulva anymore, Appellant asked DF, "if she wanted to try something else?" (R. at 131-134.) According to Appellant, DF responded "okay," lifted her shirt, and he licked her left nipple. (Id.) Appellant stopped after DF indicated she no longer wanted to continue. (Id.) Appellant confirmed that his conduct was intentional and for the purpose of gratifying his sexual desire. (R. at 135-136.)

***CHARGE I: Specification 8, Violation of the UCMJ, Article 120b***
*(Appellant touching DF's breast)*

Later that evening, Appellant walked in DF's room and touched her breasts with his hand while she was unclothed. (R. at 140.) Appellant said he made the decision to touch DF's breast

[5] *See* (R. at 113.) When questioned by the military judge whether nudity was a normal, regular, or abnormal occurrence, Appellant testified, "I did not track the frequency [inaudible], Your Honor." Contrast with HF's testimony, "[Appellant's] favorite attire was a shirt with no pants . . . I remember . . . in Germany, where . . . my son and my husband were doing the shirt no pants, and my daughter and I were doing the pants, no shirt kind of thing." (R. at 221.)

as soon as he saw her and walked into her room. (R. at 144.) According to Appellant, he stopped after DF told him to, and this was the last sexual interaction he imposed. (Id.) DF was thirteen years old. (R. at 142.)

*Appellant's Deployment/DF's Initial Disclosure*

On 13 February 2023, Appellant deployed to Kosovo. (Pros. Ex. 2 at 1.) Shortly thereafter, DF told her mother, HF, that she was glad Appellant was gone and no longer felt comfortable around him. (Id.) DF declined to provide additional details until a family trip to Thailand in May 2023. (Pros. Ex. 2 at 2.) DF then disclosed some of the offenses for which Appellant pled guilty. (Id.) On 29 May 2023, HF texted Appellant seeking clarification on DF's disclosures. (Id.) Appellant initially denied sexually abusing DF. (Id.) A few days later, Appellant contacted HF to advise that he was fasting, praying, and seeking counseling for DF from their church leader. (Id.) Appellant then attempted to extend his deployment, but his extension was canceled. (Id.) Fearing Appellant would return home sooner than expected, HF disclosed DF's allegations to her counselor who reported the allegations to local police. (Id.) On 14 July 2023, the criminal investigation began, and the Air Force Office of Special Investigation (AFOSI) was officially notified. (Id.) DF was then interviewed by local police at her school. (Id.) After expressing difficulty relaying the events verbally, DF provided a written statement categorizing Appellant's abuse in three stages. (Id.)

*Appellant Enters into a Plea Agreement*

On 7 August 2023, Appellant provided a sworn statement, waived his Article 31, UCMJ rights and provided a recorded interview. (Pros. Ex. 2 at 5.) On 15 November 2024, Appellant entered into a plea agreement. (App. Ex. V.) As relevant here, paragraph 4 of the plea agreement stated:

In exchange for my plea of guilty to the Charge and Specifications as stated in paragraph 2a, I agree that the military judge must, upon acceptance of my guilty plea, enter a sentence subject to the following limitations:

a. To Specification 1 of the Charge:
Maximum confinement: 180 months of confinement
Minimum confinement: 120 months of confinement

b. To Specification 4 of the Charge:
Maximum confinement: 84 months of confinement
Minimum confinement: 36 months of confinement

c. To Specification 5 of the Charge:
Maximum confinement: 84 months of confinement
Minimum confinement: 36 months of confinement

d. To Specification 6 of the Charge:
Maximum confinement: 60 months of confinement
Minimum confinement: 24 months of confinement

e. To Specification 7 of the Charge:
Maximum confinement: 36 months of confinement
Minimum confinement: 12 months of confinement

f. To Specification 8 of the Charge:
Maximum confinement: 36 months of confinement
Minimum confinement: 12 months of confinement

g. All confinement terms are to run consecutively; and

h. A Dishonorable Discharge.

(App. Ex. V at 2-3.)

Relevant here, paragraph 3(d) of the plea agreement required the Government to "waive all automatic forfeitures of pay and allowances for a period for the benefit of [Appellant's] dependents." (App. Ex. V at 2.) There was no provision deferring or suspending a reduction in rank. (App. Ex. V.) Lastly, within the plea agreement, Appellant affirmed, "I understand that I

may withdraw my plea of guilty at any time before the sentence is announced and that, if I do so, this agreement is canceled and of no effect." (Id.)

## ARGUMENT

## I.

## APPELLANT'S SENTENCE DID NOT EXCEED THE LIMITATIONS OF THE PLEA AGREEMENT.

### *Additional Facts*

On 21 December 2024, Appellant filed his Request for Clemency. (*Request for Clemency*, ROT, Vol. 4.) In his request, Appellant requested the convening authority waive automatic forfeitures pursuant to paragraph 3(d) of his plea Agreement. (Id.) Paragraph 3(d) required the Government to "waive all automatic forfeitures of pay and allowances for a period of six months for the benefit of [Appellant's] dependents." (App. Ex. V at 2.) In Appellant's request, he emphasized paragraph 3(d) and his compliance with the terms of the plea agreement. (Id.) Appellant "did not request any deferments of confinement, forfeitures, or reduction in grade." (*Convening Authority Decision on Action* (CADAM), ROT. Vol. 1.) In her Submission of Matters, DF requested the Convening Authority grant Appellant's request to waive automatic forfeitures without further action on the sentence. (*Victim Submission of Matters*, ROT, Vol. 4.)

### *Standard of Review*

This Court reviews the interpretation of plea agreements de novo. United States v. Lundy, 63 M.J. 299, 301 (C.A.A.F. 2006).

### *Law & Analysis*

"Appellant bears the burden of establishing that a term or condition of [an] agreement was material to his decision to plead guilty, [and] that the Government failed to comply with that term or condition . . . ." Lundy, 63 M.J. at 301-302. Here, Appellant asserts that his plea

agreement "expressly limited" his punishment to confinement and a dishonorable discharge, and the adjudged reduction in rank and reprimand were outside the permissible limits of his plea agreement. (App. Br. at 5.) Appellant is incorrect. The plain language of his plea agreement provides no such limitation.

Appellant's plea agreement indicates "the military judge must, upon acceptance of [the] guilty plea, enter a sentence subject to the following limitations." (App. Br. at 5.) Immediately after this clause, the plea agreement lists the minimum and maximum term of confinement for each specification, all confinement terms are to run consecutively, and the mandatory minimum sentence of a dishonorable discharge. (App. Ex. V at 2-3.) Appellant argues his "agreement did not refer to these limitations as a minimum," and there is no language permitting the military judge to adjudge a reprimand or reduction in grade. (App. Br. at 5-6.) In advancing this argument, Appellant asks this Court to interpret the plea agreement in a manner unsupported by the agreement's plain language or the record. The plain language in Appellant's agreement does not confine the military judge's sentencing authority as Appellant contends. A limitation means a "restriction." Limitation, Black's Law Dictionary (11th ed. 2019). The only language in the paragraph that purports to set a restriction on what can be adjudged is the maximum punishment for each specification.

Further, unless expressly limited, military judges routinely and appropriately adjudge a reduction in rank and reprimand for serious offenses, such as the rape of a small child. If, as Appellant now represents, the agreement was meant to limit the military judge's sentencing authority for all possible punishments, it was incumbent on Appellant to bargain for, include, and ensure such language in the agreement; Appellant did not. Appellant does not assert that his counsel was ineffective or that he was not properly advised of the parameters of his plea

agreement. Accordingly, this Court should decline to relieve Appellant from his failure to include a provision neither bargained for nor agreed to by OSTC, or the convening authority.

Appellant argues that his stated interest in preserving as much financial support as possible for his dependents is extrinsic evidence that he did not agree to a plea authorizing a reduction in grade that would significantly reduce the financial support his dependents would receive. (App. Br. at 7.) But Appellant could have submitted a declaration asserting, when signing the agreement, that he did not believe his plea agreement allowed him to be sentenced to a reduction in rank. Appellant submitted no such evidence.

Additionally, Appellant did not request deferral or suspension of his reduction in rank in his clemency submission – even though he acknowledged that he had been reduced to the grade of E-1. (*Request for Clemency*, ROT, Vol. 4; R. at 167-169.) If Appellant was interested in maximizing financial support, one would expect a request to defer or suspend reduction in rank in his clemency submission. Appellant's failure to claim in his clemency submission that his reduction in rank was an error undercuts his argument that he would not have entered a plea agreement allowing his rank to be reduced. Based on the plain language of the agreement and the conduct of the parties during the proceedings, the military judge properly interpreted the provisions of the plea agreement, and this Court should decline Appellant's attempt to introduce an absent term or alternate interpretation of the agreement.

Appellant's contention that the plea agreement precluded the military judge from adjudging a reduction in rank or reprimand is without merit. To the extent Appellant intended to limit the military judge's sentencing authority to solely confinement and a dishonorable discharge, the burden was on Appellant to ensure the plea agreement clearly reflected such a limitation; it does not. Appellant proposed and entered the plea agreement with the advice of

*two* defense counsel. (App. Ex. V at 3.) Appellant confirmed he was satisfied with his defense counsel, and they properly advised him with respect to his offer. (Id.) Appellant also confirmed that his plea agreement "includes all the terms of [his] plea agreement, and no other inducements have been made . . . which affect [his] offer to plead guilty." (Id.) Appellant is bound by the clear terms of his plea agreement, and this Court should preclude Appellant from rewriting a bargain he knowingly struck.

Appellant asserts that the parties' failure to argue for a reprimand and reduction in grade during sentencing indicates "the Government's understanding that the only sentence option subject to the military judge's deliberations was the confinement range." (App. Br. at 7.) Appellant's argument is speculative, and the record suggests the primary focus of the parties was the length of confinement because Appellant, based on his age, could essentially serve a life sentence.[6] In his sentencing argument, defense counsel emphasized, "[T]here's one question you need to answer when you go back to deliberations, and that's whether [Appellant] deserves the opportunity to be rehabilitated and will re-enter society at some point within the remainder of his life." (R. at 329.) It is clear, the parties were focused on Appellant's potential length in confinement, not an unsupported provision in the plea agreement purporting to narrow the military judge's sentencing authority.

Appellant also asserts that if the Court finds the sentencing portions of his plea agreement ambiguous, Appellant's "stated interest in preserving as much financial support as possible for his dependents is extrinsic evidence that he did not agree to a plea which authorized a reduction

[6] Trial defense counsel argued, "[Appellant] is 42 years old. As we presented evidence, the life expectancy for a male in the United States is 75. Make no mistake, a 40-year confinement sentence very well may be a life sentence, in fact, Your Honor, anything approaching 30 years very well may be a life sentence for him." (R. at 329.)

in grade that would significantly reduce the financial support his dependents would receive." (App. Br. at 7.) The record offers no support for Appellant's *post-sentencing* contention. Appellant had at least three opportunities—the plea colloquy, sentence announcement, and clemency request—*prior to appeal*, to inform the government and the military judge of the failure of the military judge to follow a material term; Appellant exercised none of these options. (*CADAM*, ROT. Vol. 1; *Request for Clemency*, ROT, Vol. 4; R. at 167-169.) Most importantly, there is no sworn declaration from Appellant indicating that his post-conviction interpretation was his actual understanding when he signed the plea agreement. Appellant's claim is unsupported by the record, and this Court should decline to intervene and grant relief to remedy an unsupported interpretation Appellant willfully failed to address on two separate occasions and reject this assignment of error.

## II.

## APPELLANT'S ADJUDGED CONFINEMENT LENGTH FOR REPEATEDLY RAPING AND SEXUALLY ASSAULTING HIS MINOR DAUGHTER IS NOT INAPPROPRIATELY SEVERE.

### *Additional Facts*

Based upon Appellant's guilty plea, the maximum punishment authorized by law was a total forfeiture of all pay and allowances; confinement for life without the eligibility for parole; reduction to E-1, and a dishonorable discharge. (R. at 148-149.) A dishonorable discharge was the mandatory minimum required by law. (Id.) The military judge advised Appellant, "[T]his is the maximum authorized by law, it is not the maximum punishment that [] may be reflected in a plea agreement." (R. at 149.) Appellant indicated he understood. (Id.) Appellant also confirmed that no one made any promises outside of the written agreement in exchange for his

guilty plea and that the terms within the plea agreement reflect the full and total agreement. (R. at 151.)

***Standard of Review***

This Court reviews issues of sentence appropriateness de novo. United States v. McAlhaney, 83 M.J. 164, 167 (C.A.A.F. 2023) (citing United States v. Lane, 64 M.J. 1, 2 (C.A.A.F. 2006)).

***Law & Analysis***

This Court may only affirm 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. Article 66(d)(1), UCMJ. Sentence appropriateness is assessed "by considering 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. Sauk, 74 M.J. 594, 606 (A.F. Ct. Crim. App. 2015) (en banc) (per curiam) (alteration in original) (citation omitted). However, this Court is "not authorized to grant mercy." United States v. Nerad, 69 M.J. 138, 146 (C.A.A.F. 2010)). "Absent evidence to the contrary, [an] accused's own sentence proposal is a reasonable indication of its probable fairness to him." United States v. Cron, 73 M.J. 718, 736 n.9 (A.F. Ct. Crim. App. 2014) (quoting United States v. Hendon, 6 M.J. 171, 175 (C.M.A. 1979) (citation omitted)).

Here, Appellant challenges only his confinement length of 480 months as inappropriately severe. (App. Br. at 9.) Appellant argues that his confinement should be reduced to 240 months based on the circumstances of his offenses and rehabilitative efforts. (Id.) After assessing Appellant's conduct and the entire record, this Court should decline Appellant's request.

**1. Appellant's Circumstances**

While delivering his unsworn statement, Appellant detailed his 17-year career. (R. at 301-304.) In detailing his career progression, Appellant testified that he received a Green Rope in the Airman Leadership program, was a Distinguished Graduate as the top student in his academic class, and a Distinguished Graduate in his Honor Guard training class. (R. at 302.) Appellant also completed his bachelor's degree from American Military University. (Id.) After discussing his military career, Appellant testified that he "deeply regret[s] the emotional stress and breach of trust" his actions caused. (R. at 304.) Appellant emphasized, "God gave me a family and told me to do one thing, take care of it." (Id.) According to Appellant, he failed. (R. at 306.) Appellant confirmed that "[his] family was hurt by [his] hand" and he "will have to live with the hurt [he] caused [his] family for eternity. (R. at 303-304.)

As part of his rehabilitative efforts, Appellant stated that he participated in "more than a year of clinical evaluations and therapy from five different clinics, five rehabilitation programs, [with] 16 different therapists, including psychologists, psychiatrists, and social workers to better understand why [he] took the actions that harmed [his] daughter, family, [himself], and [his] community." (R. at 305.) Appellant also testified he "faked not having a problem because [he] was trying to fit into a society, family, and a religion that all condemn sex." (Id.) According to Appellant, the intent of his unsworn statement was to convey that he was not a predator, while acknowledging "[his] actions were harmful to [his] daughter . . . a vulnerable child under [his] care." (R. at 310.) While Appellant's use of mental health resources is informative, his efforts does not excuse the multiple instances of rape and sexual assault committed against his daughter for over a decade. This is particularly true here, where curiously, while delivering his unsworn statement, Appellant testified that he formerly volunteered as a Sexual Assault Victim Advocate.

(R. at 301.) In concluding his unsworn statement, Appellant conceded, "I have come to understand that I may have been driven to sexually abuse my children because of addictive patterns; however, that in no way reduces my culpability." (R. at 310.) Appellant's latter statement is correct, and this Court should agree and assess Appellant's conduct appropriately. This factor must weigh in favor of the adjudged sentence.

**2. The Nature and Seriousness of the Offenses**

*The Impact of Appellant's Conduct on DF and her Brother*

DF's mother, HF, testified that Appellant's actions left lingering physical and psychological impact on DF and his family. When describing the initial impact of Appellant's actions on DF, HF indicated that DF begin wetting the bed again despite being potty trained. (R. at 209.) HF attributed this conduct to DF's confusion about the sensation involved in urinating versus Appellant rubbing her genital area. (R. at 211-212.) According to HF, DF continued to struggle with bedwetting until the family moved to England when she was 13. (R. at 212.) In describing the emotional impact experienced by DF, HF testified that DF was suicidal, suffered from anxiety attacks, experienced difficulty in school, and contemplated dropping out. (R. at 219.) According to HF, DF shared "that she's afraid she'll abuse her children if she has them because that's what she was taught to do." (R. at 220.) HF also testified that DF suffered nightmares about Appellant using military resources to attack the family. (R. at 213.) According to HF, Appellant's son also struggled to deal with his disappointment in his father, expressed frustration that men are no longer in the house, and he no longer views his father as a male role model. (R. at 201- 203.)

*The Impact of Appellant's Conduct on HF*

When describing the impact of Appellant's actions on her personally, HF testified that she failed to protect her children, has suicidal ideations, and "considered taking them with [her] so they [do not] have to live in a world with this kind of evil." (R. at 223.) HF indicated Appellant was aware of her own past sexual trauma prior to committing his sexual assault on their daughter. (R. at 224.) HF expressed, "It feels like this whole process has been blamed on me, and [] as much as I regret it, I am not the one who reported this crime. I wish I had, but [it] wasn't, and [] it was not me. (R. at 237.) According to HF, she now suffers from depression. (R. at 204.)

*DF's Unsworn Statement*

DF submitted, and orally delivered, an unsworn victim impact statement. (R. at 288-289; Ct. Ex. A.) DF testified, "I did not like being touched, but I did not tell him to stop because I was worried he'd hurt me if I told him no." (R. at 288; Ct. Ex. A.) DF stated, "I remember the moment I realized what he was doing, I felt like part of my world collapsed. I stopped thinking of him as my father and [] almost immediately, he just became some person to me." (Id.) DF testified, "One of the most confusing things is that he was doing these things for so long that I don't actually know what normal is like." (R. at 289.)

*Long Term Effects of Appellant's Sexual Abuse of DF*

During the Government's sentencing case, Dr. JB, an expert in Forensic Psychology and Child Forensic Psychology, testified about sex addiction and the potential effects of sexual abuse on minors. (R. at 263.) Concerning sexual abuse, JB testified:

> The impact is vast, it could essentially impact all areas of their life, their developmental trajectory, social trajectory, school, work, relationships, essentially their medical health can even be impacted

> . . . basically, you name an area and there's likely a way that childhood sexual abuse can negatively impact a person.

(R. at 263.) JB confirmed victims of childhood sexual abuse can experience difficulty with relationships, a fear of men, nightmares, and anxiety attacks. (Id.) JB also stated that, "we [] know from research that people who are victims of assault are more likely to be victims of assault in the future." (R. at 265.) Finally, JB indicated that "early abuse can change the way [] children develop and grow . . . the way they see their parents . . . the way they see the world . . . themselves . . . and their feelings about safety trust and relationships." (R. at 283.)

In spite of his egregious conduct and its effects on his family, Appellant asserts that when his record of service is considered, 480 months of confinement is inappropriately service. (App. Br. at 9.) Appellant also argues that while sexual offenses against a child are serious, his conduct did not involve vaginal intercourse, force, threats, or intimidation. (Id.) These arguments are unpersuasive. Appellant's daughter, DF, was five years old, when he: (1) asked her to kiss or suck his penis (R. at 85.); (2) ejaculated in her mouth (Pros. Ex. 2 at 5.); and (3) touched her vulva on two separate occasions (Pros Ex. 2 at 5; R. at 92; R. at 97; R. at 102-103.). The Government also notes that DF was 12 years old and Appellant 38 when he placed his hand on her genitals deliberately for his sexual gratification. (R. at 112; R. at 114-116.) Appellant confirmed that his conduct was purposeful because he immediately asked DF if she enjoyed it. (R. at 116.)

Appellant now believes he is entitled to leniency because "five of the nine sexual acts [he] was convicted of occurred over a two-week time span in 2013" and that "seven years passed without another incident occurring." (App. Br. at 9.) Appellant is mistaken. As the record indicates and based on Appellant's admission, his sexual abuse stopped only after his wife rediscovered her sex-drive and the parties began to engage in intercourse again. (Pros. Ex. 2 at

46-47.) Once the family moved to England and his wife no longer desired Appellant and the parties stopped engaging in intercourse, Appellant immediately began to prey on DF again.[7] (Id.) DF was thirteen years old. (R. at 121.)

Appellant also attempts to mitigate his sentence by asserting his post-offense conduct demonstrated his commitment to rehabilitation and ability to avoid future misconduct. (App. Br. at 10.) Appellant notes he voluntarily went to AFOSI, cooperated with law enforcement, pleaded guilty, and apologized to his family. (Id.) Appellant also highlights the mental health treatment received to address his conduct. (Id.) While informative, future rehabilitation cannot cure *some* conduct. Appellant's focus on his rehabilitation does not excuse his conduct of asking his then five year old daughter to kiss or suck his penis after she simply asked for assistance with the television. (Pros. Ex. 2 at 5; R. at 41-44.) Appellant's newfound focus does not absolve him of ejaculating in his daughter's mouth. (Pros. Ex. 2 at 5, 45-46.) Further, while Appellant eventually confessed to AFOSI, HF testified that Appellant initially sought chaplain assistance, with her concurrence, so that "he would be able to confess everything without being reported." (Pros. Ex. 2 at 13.) It was only after his bishop and wife demanded he fully confess, to repent, that Appellant went to AFOSI. (R. at 305.)

Furthermore, while Appellant highlights his rehabilitative efforts, his claims of successful rehabilitation are undermined by his expressed difficulties during treatment. (R. at 307.) Specifically, Appellant was retained for four months in a program generally designed to last six to eight weeks. (R. at 307-308.) Appellant's extended duration within this program is evidence

[7] CHARGE I: Specification 4, Violation of the UCMJ, Article 120b (Appellant penetrating DF's vulva with his finger)

of Appellant's struggle to consistently control his behavior and is a factor favoring the adjudged sentence.

Appellant now attributes *some* of his conduct to sex addiction and Appellant primarily focused his rehabilitation efforts there. (R. at 306-309.) Yet, JB testified that sex addiction is not in the Diagnostic and Statistical Manual of Mental Disorders (DSM)-5 and current research "does not support the conceptualization of sex as an addiction." (R. at 274.) JB clarified the difference between a compulsive disorder, and an addiction disorder includes a biological and neurological component; addiction disorders contain neither. (R. at 274-275.) On cross-examination, while acknowledging that *some* members of her community consider sex addiction as an addiction, JB emphasized, the majority of the psychology community does not. (R. at 275.) JB testified that the members of her community who recognize sexual addiction as an addiction tend to have less education with a different background and training. (R. at 276.) Most importantly, JB testified that while an individual following the recommendations of their treatment provider is some evidence of rehabilitation and an incorrect diagnosis such as here, should not be held against the patient, treatment for a disputed disorder—sexual addiction—is not beneficial and does not address the issue. (R. at 280.) Accordingly, this factor should be decided in favor of the adjudged sentence.

Appellant's request to reduce his term of confinement from 480 months to 240 months should be denied. (App. Br. at 10.) Appellant's argument reflects nothing more than a general disagreement with the sentence adjudged. Finding Appellant raped and sexually assaulted his daughter on multiple instances, the military judge, as the sentencing authority, imposed 480 months of confinement. Moreover, the military judge determined that the multiple sexual assaults within Charge I: Specification 1, alone, were sufficient to adjudge a sentence of 180

months. Appellant now seeks to reduce his total confinement to 240 months in spite of the egregious conduct committed against his minor daughter. Further, Appellant proposed the maximum confinement time for each specification. (App. Ex. V.) See Hendon, 6 M.J. 171, 175 (finding an "accused's own sentence proposal is a reasonable indication of its probable fairness to him.") Appellant received the sentence he proposed, and given the nature and seriousness of Appellant's offenses, this Court should not disturb the military judge's sentencing, and Appellant's confinement is not inappropriately severe.

When considering Appellant's request, this Court should also note, in admitting Prosecution Exhibit 8,[8] the military judge determined that Appellant's statements were relevant to assessing his attitude regarding the potential sentencing in his case. (R. at 234-235.) In finding the evidence relevant as a matter in aggravation, the military judge concluded, "this is an attempt, at least [it] could be read to be -- an attempt by the accused to sway the witnesses in this case to push prosecution authorities to lessen the sentence for this case, and to have, at least, to raise the specter of some constant monetary consequences." (R. at 235; Pros. Ex. 8.) Appellant's attempt to manipulate the sentencing process to lessen his punishment reinforces that his current confinement term is not inappropriately severe, and this Court should not disturb his current confinement length.

Lastly, based on Appellant's rape and sexual assault of his minor daughter and *his* record, his confinement length, is not inappropriately severe. Appellant's duties as a father and husband were insufficient to cease Appellant's abuse or to conform his conduct to minimal societal standards, let alone military standards. Based upon *his* conduct and record, this Court should

[8] Email Exchange between Appellant and HF. (Pros. Ex. 8.)

find Appellant's adjudged confinement is not inappropriately severe. This Court should deny this assignment of error.

## CONCLUSION

For these reasons, the United States respectfully requests that this Honorable Court deny Appellant's claims and affirm the sentence as correct in law and fact.

[redacted]

DONNELL D. WRIGHT, Capt, 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 21 January 2026.

[redacted]

DONNELL D. WRIGHT, Capt, USAF
Appellate Government Counsel
[redacted]

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

| | |
|---|---|
| **UNITED STATES**<br>*Appellee*<br>v.<br>Technical Sergeant (E-6)<br>**WARD W. FISCHER**<br>United States Air Force<br>*Appellant* | **REPLY BRIEF ON BEHALF OF APPELLANT**<br>Before Panel No. 2<br>No. ACM 40786<br>4 February 2026 |

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

Pursuant to Rules 18(d) and 18.3 of this Honorable Court's Rules of Practice and Procedure, Technical Sergeant (TSgt) Ward W. Fischer submits this reply to the Government's Answer, filed 21 January 2026.

## I. Technical Sergeant Fischer's sentence exceeded the limitations of the plea agreement.

TSgt Fischer's plea agreement did not permit the military judge to adjudge a reduction in grade. The plea agreement plainly stated the military judge's sentence was "subject to the following limitations" and then listed various sentence components. App. Ex. V at 2-3. The plea agreement did not state the military judge was authorized to adjudge a sentence beyond these limitations. *Id.* The plea agreement did not state the military judge was authorized to adjudge a reduction in grade. *Id.*

Despite this, and despite recognizing that the word limitation is appropriately defined as a restriction, the Government asserts that "[t]he only language in the paragraph that purports to set a restriction on what can be adjudged is the maximum punishment for each specification." Gov. Ans. at 10. This counterintuitive statement fails to recognize that the listed punishments *were* the limitations on the permissible sentence.

Without the limitations of the plea agreement, the military judge was permitted to sentence TSgt Fischer to life without eligibility for parole, a dishonorable discharge, total forfeitures of all pay and allowances, and reduction to E-1. R. at 149. TSgt Fischer's plea agreement limited this maximum punishment by requiring the military judge to enter a sentence limited to a range of confinement between 240-480 months and a dishonorable discharge. App. Ex. V at 2-3. The military judge exceeded these limitations by adjudging a reduction in grade. Entry of Judgment.

The Government responds to the military judge exceeding the plea agreement's limitation by claiming "unless expressly limited, military judges routinely . . . adjudge a reduction in grade and reprimand for serious offenses." Gov. Ans. at 11. In addition to being unsupported by any data or explanation, this claim continues to ignore that the plea agreement in this case did expressly limit the military judge and, upon accepting the plea agreement, the military judge was bound to those limitations. Article 53a(d), Uniform Code of Military Justice, 10 U.S.C. § 853a(d).

The plea agreement is unambiguous and did not authorize the military judge to adjudge a reduction in grade. However, even if this Court finds the agreement was ambiguous, TSgt Fischer's goal of maximizing financial support for his dependents shows he did not intend on allowing the military judge to reduce the amount of financial support his dependents would receive. The Government declares the "record offers no support" for TSgt Fischer's "contention." Gov. Ans. at 13. This statement is incorrect.

The plea agreement required the Convening Authority to waive automatic forfeitures for a period of six months for the benefit of TSgt Fischer's dependents. App. Ex. V at 2. Trial defense counsel acknowledged TSgt Fischer's interest in preserving financial support for his dependents during the defense sentencing argument. R. at 339. TSgt Fischer's unsworn statement plainly says that one of his two goals is "to support his family from a distance, even if that is limited to only

monetary support." Def. Ex. Q at 6. Each of these facts are in the record and support that TSgt Fischer had an interest in providing financial support to his dependents when deciding to enter into the plea agreement. A reduction in grade from E-6 to E-1 lowered the amount of pay and allowances TSgt Fischer's family received over the six-month period he bargained for. This Court should find that the plea agreement did not authorize the military judge to reduce TSgt Fischer because the plain language of the agreement did not allow for a reduction in grade and interpreting the agreement in a way that permitted a reduction in grade contravenes TSgt Fischer's stated interest.

TSgt Fischer is not seeking relief that will benefit him directly while he remains in confinement for at least two decades. This request, which the Government opposes, will directly benefit the victim in this case, D.F., and her family by providing financial support they should have received after trial. This benefit to his dependents was part of the inducement for TSgt Fischer to enter into an agreement to plead guilty. That agreement imposed limitations on the military judge's sentence and the military judge exceeded those limitations by reducing TSgt Fischer to E-1. This Court should set aside the adjudged reduction in grade.

**II. Forty years of confinement is inappropriately severe.**

TSgt Fischer understands the severity of his offenses and acknowledged that he harmed his daughter, family, and community. Def. Ex. Q at 4. His request to consider his rehabilitative efforts was not made to excuse his behavior, as the Government repeatedly insinuates, but instead to craft an appropriate sentence for his case. Def. Ex. Q at 1; Gov. Ans. at 15, 19. Twenty years of confinement is appropriate for TSgt Fischer and this Court should reassess his sentence as such.

The Government's treatment of TSgt Fischer's rehabilitative efforts is conclusory, unsupported by the record, and contradicts the military justice system's consideration of rehabilitative potential for sentencing. The Government avows "future rehabilitation cannot cure

*some* conduct" without providing any support for such a statement or explanation for when this Court should not consider rehabilitation when evaluating an appropriate sentence. Gov. Ans. at 19. On the contrary, courts expressly consider evidence of rehabilitative potential when evaluating an appropriate sentence and an accused has a right to present matters in extenuation or mitigation. *See* Rules for Courts-Martial 1001(b)(5), 1001(d)(1).

The Government then makes unsupported assertions about TSgt Fischer's treatment: "[TSgt Fischer's] extended duration within this program is evidence of [his] struggle to consistently control his behavior…." *Id.* at 19-20. Not only does the Government claim this without any support, but the argument also contradicts TSgt Fischer's explanation that he remained in the program until "the therapists felt confident that [he] could function properly in society." Def. Ex. Q at 5. TSgt Fischer's extensive time in treatment is not a fact undermining his rehabilitation as the Government argues, Gov. Ans. at 19-20—rather, it is an assurance from medical professionals that he has been thoroughly evaluated and is capable of being a productive member of society.

The Government also argues that TSgt Fischer's treatment in sexual addiction is not beneficial and supports the adjudged sentence. Gov. Ans. at 20. While the expert testimony during sentencing showed disputes among the psychological community regarding whether sexual addiction is a valid disorder, it is counterintuitive that seeking additional behavioral therapy would weigh in favor of more confinement as the Government asserts. *Id.* This point also ignores the fact that TSgt Fischer sought additional treatment beyond sexual addiction, to include a child attraction awareness and prevention course through the Air Force. Def. Ex. Q at 5. Even though this treatment was not required, TSgt Fischer asked to complete the course because he "considered any information and education on the topic to be beneficial." *Id.* Contrary to the Government's

argument, TSgt Fischer's extensive, varied treatment and therapy is beneficial and a critical aspect of sentencing. Gov. Ans. at 20.

The Government attempts to buttress its argument by incorrectly stating that TSgt Fischer "proposed the maximum confinement time for each specification." Gov. Ans. at 21. This is incorrect. In the email exchange between TSgt Fischer and his wife —which the Government relies on separately in its brief—TSgt Fischer plainly says the Government "pushed a plea deal for 20 years and a ceiling of 40 years." Pros. Ex. 8 at 2.

TSgt Fischer agreed to the Government's confinement terms because he did not want his daughter to have to testify and re-live the experiences in court. Def. Ex. Q at 6. He did not propose the confinement terms and this Court should not use the plea agreement to find the confinement terms appropriate as the Government incorrectly suggests.

This Court should not follow the Government's untenable view of post-offense rehabilitation and incorrect factual assertions. TSgt Fischer's substantial rehabilitation, including months of behavioral treatment, education, and work with sixteen therapists, exhibit a commitment to improving and avoiding future misconduct. This commitment to rehabilitation and becoming a productive member of society is why forty years of confinement is inappropriately severe. This Court should reassess the sentence and reduce the term of confinement to 240 months.

Respectfully submitted,

[redacted]

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were electronically delivered to the Court and served on the Air Force Government Trial and Appellate Operations Division on 4 February 2026.

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
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**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

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| **UNITED STATES**<br>*Appellee,*<br><br>v.<br><br>Technical Sergeant (E-6)<br>**WARD W. FISCHER,**<br>United States Air Force<br>*Appellant.* | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | **APPELLANT'S MOTION FOR ENLARGEMENT OF TIME TO FILE REPLY BRIEF OUT OF TIME**<br><br>Before Panel No. 2<br><br>No. ACM 40786<br><br>23 January 2026 |

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

Pursuant to Rules 23.3(m)(3), (4), and (6) of this Honorable Court's Rules of Practice and Procedure, Technical Sergeant Ward. W. Fischer (Appellant) hereby moves for an enlargement of time to file a reply to the Government Answer. Appellant requests an enlargement for a period of seven days, which will end on **4 February 2026**. The record of trial was docketed with this Court on 6 March 2025. Undersigned counsel filed a Brief on Behalf of Appellant with this Court on 22 December 2025. The Government filed its Answer with this Court on 21 January 2026. From the date of docketing to the present date, 323 days have elapsed. On the date requested, 335 days will have elapsed.

On 11–12 December 2024, a general court-martial consisting of a military judge alone at Joint Base Andrews, Maryland, found Appellant guilty, consistent with his pleas, of one charge with one specification of rape of a child, one specification sexual assault of a child, and four specifications of sexual abuse of a child, all in violation of Article 120b, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920b. R. at 175; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 21 January 2025. The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for 480 months, and a dishonorable discharge. R. at 351–52; EOJ.

The convening authority took no action on the findings, approved the sentence in its entirety, and waived automatic forfeitures for a period of six months for the benefit of Appellant's dependents. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Technical Sergeant Ward W. Fischer*, 15 January 2025.

The electronic record of trial is 14 volumes consisting of 6 prosecution exhibits, 16 defense exhibits, 1 court exhibit, and 7 appellate exhibits; the transcript is 353 pages. Appellant is currently confined.

An enlargement of time is necessary to file Appellant's reply brief because Appellant is currently in quarantine and unavailable to consult with undersigned counsel regarding his reply. Undersigned counsel had a scheduled meeting with Appellant for 23 January 2026 and was informed by a representative from Appellant's confinement facility that Appellant is in quarantine and is unavailable to consult with undersigned counsel. Appellant's quarantine does not have an end date but Appellant's confinement facility estimates the quarantine will end next week. The requested enlargement of time will allow Appellant to be released from quarantine and consult with his counsel before filing his reply to the Government's Answer.

This motion for an enlargement of time is out of time because Appellant was placed into quarantine today, which is less than seven days before his reply brief is due. Before Appellant was placed into quarantine, undersigned counsel anticipated consulting with Appellant and completing a reply brief on Appellant's behalf within the seven days permitted to file a reply brief following an appellee's answer. Undersigned counsel filed this motion on the same day he was notified that Appellant would be unavailable before the current deadline to file Appellant's reply brief.

Through no fault of Appellant, Appellant is unavailable to consult with his appellate defense counsel to provide input on his reply brief. Prior to his quarantine, Appellant was notified of his

right to a timely appeal, the status of his appeal, and undersigned counsel's progress on Appellant's case. Appellant was not advised of this request for an enlargement of time due to his quarantine, but Appellant previously expressed agreement with necessary requests for enlargements of time, which includes this request.

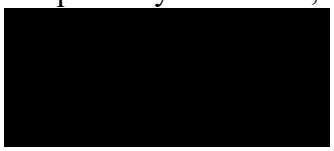
WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time for good cause shown.

[redacted]
JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

**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 Government Trial and Appellate Operations Division on 23 January 2026.

Respectfully Submitted,



JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

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

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| **UNITED STATES**<br>*Appellee,*<br><br>v.<br><br>Technical Sergeant (E-6)<br>**WARD W. FISCHER,**<br>United States Air Force<br>*Appellant.* | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | **APPELLANT'S MOTION FOR LEAVE TO FILE AND CONSENT MOTION FOR ENLARGEMENT OF TIME TO FILE REPLY BRIEF – OUT OF TIME**<br><br>Before Panel No. 2<br><br>No. ACM 40786<br><br>26 January 2026 |

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

Pursuant to Rule 23(d) of this Honorable Court's Rules of Practice and Procedure, Technical Sergeant Ward. W. Fischer (Appellant) moves for leave to file a motion for an enlargement of time out of time. Pursuant to Rules 23.3(m)(3), (4), and (6) Appellant moves for an enlargement of time to file a reply to the Government Answer. Appellant requests an enlargement for a period of seven days, which will end on **4 February 2026**. The Government has been consulted, and consents to the requested enlargement of time.

The record of trial was docketed with this Court on 6 March 2025. Undersigned counsel filed a Brief on Behalf of Appellant with this Court on 22 December 2025. The Government filed its Answer with this Court on 21 January 2026. From the date of docketing to the present date, 326 days have elapsed. On the date requested, 335 days will have elapsed.

On 11–12 December 2024, a general court-martial consisting of a military judge alone at Joint Base Andrews, Maryland, found Appellant guilty, consistent with his pleas, of one charge with one specification of rape of a child, one specification sexual assault of a child, and four specifications of sexual abuse of a child, all in violation of Article 120b, Uniform Code of Military

Justice (UCMJ), 10 U.S.C. § 920b. R. at 175; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 21 January 2025. The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for 480 months, and a dishonorable discharge. R. at 351–52; EOJ. The convening authority took no action on the findings, approved the sentence in its entirety, and waived automatic forfeitures for a period of six months for the benefit of Appellant's dependents. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Technical Sergeant Ward W. Fischer*, 15 January 2025.

The electronic record of trial is 14 volumes consisting of 6 prosecution exhibits, 16 defense exhibits, 1 court exhibit, and 7 appellate exhibits; the transcript is 353 pages. Appellant is currently confined.

An enlargement of time is necessary to file Appellant's reply brief because Appellant is currently in quarantine and unavailable to consult with undersigned counsel regarding his reply. Undersigned counsel had a scheduled meeting with Appellant for 23 January 2026 and was informed by a representative from Appellant's confinement facility that Appellant is in quarantine and is unavailable to consult with undersigned counsel. Appellant's quarantine does not have an end date but Appellant's confinement facility estimates the quarantine will end this week. The requested enlargement of time will allow Appellant to be released from quarantine and consult with his counsel before filing his reply to the Government's Answer.

This motion for an enlargement of time is out of time because Appellant was placed into quarantine on 23 January 2026, which is less than seven days before his reply brief is due. Before Appellant was placed into quarantine, undersigned counsel anticipated consulting with Appellant and completing a reply brief on Appellant's behalf within the seven days permitted to file a reply brief following an appellee's answer. Undersigned counsel filed a motion for an enlargement of

time on the same day he was notified that Appellant would be unavailable before the current deadline to file Appellant's reply brief and submits this corrected motion to include an accompanying motion for leave to file the motion for an enlargement of time.

Through no fault of Appellant, Appellant is unavailable to consult with his appellate defense counsel to provide input on his reply brief. Prior to his quarantine, Appellant was notified of his right to a timely appeal, the status of his appeal, and undersigned counsel's progress on Appellant's case. Appellant was not advised of this request for an enlargement of time due to his quarantine, but Appellant previously expressed agreement with necessary requests for enlargements of time, which includes this request.

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

[redacted]

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel
[redacted]

**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 Government Trial and Appellate Operations Division on 26 January 2026.

Respectfully Submitted,

JOSHUA L. LOPES, Capt, USAF
Appellate Defense Counsel