

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

UNITED STATES	)	No. ACM 40709
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Joshua J. POLLY	)	
Staff Sergeant (E-5)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 3</b>

On 30 December 2024, counsel for Appellant submitted a Motion for Enlargement of Time (First) requesting an additional 60 days to submit Appellant’s assignments of error. The Government opposes the motion.

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

Accordingly, it is by the court on this 6th day of January, 2025,

**ORDERED:**

Appellant’s Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error not later than **7 March 2025**.

Appellant’s counsel is advised that any subsequent motions for enlargement of time shall include, in addition to matters required under this court’s Rules of Practice and Procedure, statements as to: (1) whether Appellant was advised of Appellant’s right to a timely appeal, (2) whether Appellant was provided an update of the status of counsel’s progress on Appellant’s case, (3) whether Appellant was advised of the request for an enlargement of time, and (4) whether Appellant agrees with the request for an enlargement of time.



FOR THE COURT



CAROL K. JOYCE  
Clerk of the Court

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (FIRST)</b>
	)	
v.	)	Before Panel No. 3
	)	
Staff Sergeant (E-5)	)	No. ACM 40709
<b>JOSHUA J. POLLY,</b>	)	
United States Air Force,	)	30 December 2024
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(1) and (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 60 days, which will end on **7 March 2025**. The record of trial was docketed with this Court on 7 November 2024. From the date of docketing to the present date, 53 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 30 December 2024.

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel

[REDACTED]

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

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Staff Sergeant (E-5)	)	ACM 40709
JOSHUA J. POLLY, USAF,	)	
<i>Appellant.</i>	)	Panel No. 3
	)	

**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.

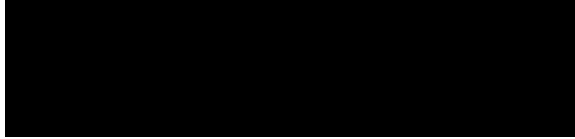
[REDACTED]

MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Counsel Division

[REDACTED]  
[REDACTED]  
[REDACTED]

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 3 January 2025.



MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Counsel Division



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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (SECOND)</b>
	)	
v.	)	Before Panel No. 3
	)	
Staff Sergeant (E-5)	)	No. ACM 40709
<b>JOSHUA J. POLLY,</b>	)	
United States Air Force,	)	27 February 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) 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 30 days, which will end on **6 April 2025**. The record of trial was docketed with this Court on 7 November 2024. From the date of docketing to the present date, 112 days have elapsed. On the date requested, 150 days will have elapsed.

On 16 April and 25–26 June 2024, a military judge sitting as a general court-martial at Cannon Air Force Base, New Mexico, found Appellant guilty, consistent with his pleas, of one charge and one specification of indecent language in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 151; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 28 August 2024. The military judge sentenced Appellant to reduction to the grade of E-1, confinement for five months, and a dishonorable discharge. R. at 241; EOJ. The convening authority took no action on the findings or the sentence but waived automatic forfeitures for the benefit of Appellant’s dependents. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Joshua J. Polly*, 5 August 2024.

The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, 82 appellate exhibits, and one court exhibit; the transcript is 243 pages. Appellant is not 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 advised of his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel

[Redacted signature block]

**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 February 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,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Staff Sergeant (E-5)	)	ACM 40709
JOSHUA J. POLLY, USAF,	)	
<i>Appellant.</i>	)	Panel No. 3
	)	

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

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

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

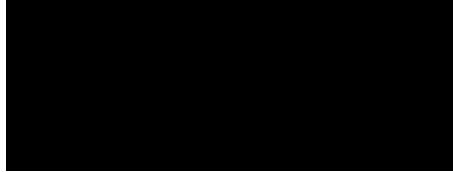
[Redacted Signature]

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

[Redacted Address]

**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 February 2025.



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



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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (THIRD)</b>
	)	
v.	)	Before Panel No. 3
	)	
Staff Sergeant (E-5)	)	No. ACM 40709
<b>JOSHUA J. POLLY,</b>	)	
United States Air Force,	)	28 March 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) 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 (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **6 May 2025**. The record of trial was docketed with this Court on 7 November 2024. From the date of docketing to the present date, 141 days have elapsed. On the date requested, 180 days will have elapsed.

On 16 April and 25–26 June 2024, a military judge sitting as a general court-martial at Cannon Air Force Base, New Mexico, found Appellant guilty, consistent with his pleas, of one charge and one specification of indecent language in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 151; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 28 August 2024. The military judge sentenced Appellant to reduction to the grade of E-1, confinement for five months, and a dishonorable discharge. R. at 241; EOJ. The convening authority took no action on the findings or the sentence but waived automatic forfeitures for the benefit of Appellant’s dependents. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Joshua J. Polly*, 5 August 2024.

The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Appellant is not 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 advised of his right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

**WHEREFORE**, Appellant respectfully requests that this Honorable Court grant the requested third 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 28 March 2025.

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel

[REDACTED]

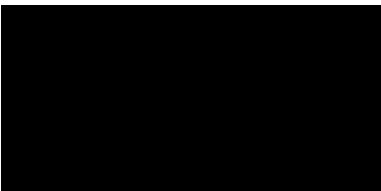

**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
Staff Sergeant (E-5)	)	Before Panel No. 3
<b>JOSHUA J. POLLY</b> ,	)	No. ACM 40709
United States Air Force,	)	
<i>Appellant.</i>	)	31 March 2025

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

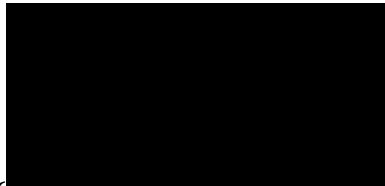
Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file an Assignments of Error in this case.

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

  
JOCELYN Q. WRIGHT, Maj, USAF  
Appellate Government Counsel  


**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force  
Appellate Defense Division on 31 March 2025.



JO [REDACTED] USAF  
Appellate Government Counsel



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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (FOURTH)</b>
	)	
v.	)	Before Panel No. 3
	)	
Staff Sergeant (E-5)	)	No. ACM 40709
<b>JOSHUA J. POLLY,</b>	)	
United States Air Force,	)	29 April 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a fourth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **5 June 2025**. The record of trial was docketed with this Court on 7 November 2024. From the date of docketing to the present date, 173 days have elapsed. On the date requested, 210 days will have elapsed.

On 16 April and 25–26 June 2024, a military judge sitting as a general court-martial at Cannon Air Force Base, New Mexico, found Appellant guilty, consistent with his pleas, of one charge and one specification of indecent language in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 151; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 28 August 2024. The military judge sentenced Appellant to reduction to the grade of E-1, confinement for five months, and a dishonorable discharge. R. at 241; EOJ. The convening authority took no action on the findings or the sentence but waived automatic forfeitures for the benefit of Appellant’s dependents. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Joshua J. Polly*, 5 August 2024.

The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-seven clients; twenty-two clients are pending initial AOE's before this Court.<sup>1</sup> Eleven matters currently have priority over this case:

- 1) *United States v. Haymond*, ACM 40588 – The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, forty-two appellate exhibits, and one court exhibit; the transcript is 689 pages. Undersigned counsel has reviewed approximately forty percent of the record of trial in this case.
- 2) *United States v. Driskill*, ACM 39889 (rem) – The record of trial is fourteen volumes consisting of fourteen prosecution exhibits, four defense exhibits, and 169 appellate exhibits; the transcript is 2,062 pages. Undersigned counsel needs to conduct additional review of the record of trial to prepare a brief on remand in this case.
- 3) *United States v. Keilberg*, ACM 40601 – The record of trial is four volumes consisting of thirteen prosecution exhibits, one defense exhibit, and seven appellate exhibits; the

---

<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately fifteen percent of the seven-volume record of trial in *U.S. v. Haymond*, ACM 40588; conducted two practice oral arguments and presented oral argument as lead counsel before the United States Court of Appeals for the Armed Forces (CAAF) in *U.S. v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF; prepared and filed a twenty-seven-page supplement to the petition for grant of review to the CAAF in *U.S. v. Cadavona*, ACM 40476, USCA Dkt. No. 25-0114/AF; assisted with preparing and filing two motions in *U.S. v. Dawson*, ACM 24041; completed his review of the three-volume record of trial and prepared and filed a fifteen-page AOE in *U.S. v. Harnar*, ACM 40559; reviewed the two-volume record of trial and prepared and filed a motion to withdraw from appellate review in *U.S. v. Hatfield*, ACM S32791; and participated in three practice oral arguments for an additional case. Additionally, counsel was on leave on 18 and 26–29 April 2025.

- transcript is 118 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 4) *United States v. Jackson*, ACM S32780 – The record of trial is five volumes consisting of twelve prosecution exhibits, thirteen defense exhibits, five appellate exhibits, and one court exhibit; the transcript is 122 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
  - 5) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel has begun reviewing the record of trial in this case.
  - 6) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
  - 7) *United States v. Nelson*, ACM 24042 – The record of trial is three volumes consisting of fifteen prosecution exhibits, one defense exhibit, and seventeen appellate exhibits; the transcript is 336 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
  - 8) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

- 9) *United States v. Myslow*, ACM 40668 – The record of trial is three volumes consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is eighty-five pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 10) *United States v. Payton*, ACM 40669 – The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 11) *United States v. Mims*, ACM S32799 – The electronic record of trial is one volume consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 103 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

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

**WHEREFORE**, Appellant respectfully requests that this Honorable Court grant the requested fourth 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 29 April 2025.

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense 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 30 April 2025.



JO [REDACTED] USAF  
Appellate Government Counsel



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

UNITED STATES	)	No. ACM 40709
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>NOTICE OF PANEL CHANGE</b>
Joshua J. POLLY	)	
Staff Sergeant (E-5)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	

It is by the court on this 6th day of May, 2025,

**ORDERED:**

That the Record of Trial in the above-styled matter is withdrawn from Panel 3 and referred to Panel 1 for appellate review.

This panel letter supersedes all previous panel assignments.



FOR THE COURT



OLGA STANFORD, Capt, USAF  
Chief Commissioner

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (FIFTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Staff Sergeant (E-5)	)	No. ACM 40709
<b>JOSHUA J. POLLY,</b>	)	
United States Air Force,	)	28 May 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a fifth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **5 July 2025**. The record of trial was docketed with this Court on 7 November 2024. From the date of docketing to the present date, 202 days have elapsed. On the date requested, 240 days will have elapsed.

On 16 April and 25–26 June 2024, a military judge sitting as a general court-martial at Cannon Air Force Base, New Mexico, found Appellant guilty, consistent with his pleas, of one charge and one specification of indecent language in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 151; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 28 August 2024. The military judge sentenced Appellant to reduction to the grade of E-1, confinement for five months, and a dishonorable discharge. R. at 241; EOJ. The convening authority took no action on the findings or the sentence but waived automatic forfeitures for the benefit of Appellant’s dependents. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Joshua J. Polly*, 5 August 2024.

The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-nine clients; twenty-three clients are pending initial AOE's before this Court.<sup>1</sup> Additionally, one client has an upcoming petition for a grant of review and supplement to the petition before the United States Court of Appeals for the Armed Forces (CAAF). Nine matters currently have priority over this case:

- 1) *United States v. Keilberg*, ACM 40601 – The record of trial is four volumes consisting of thirteen prosecution exhibits, one defense exhibit, and seven appellate exhibits; the transcript is 118 pages. Undersigned counsel has begun reviewing the record of trial in this case.
- 2) *United States v. York*, ACM 40604 – The record of trial is seven volumes consisting of five prosecution exhibits, two defense exhibits, 36 appellate exhibits, and one court exhibit; the transcript is 847 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.
- 3) *United States v. Jackson*, ACM S32780 – The record of trial is five volumes consisting of twelve prosecution exhibits, thirteen defense exhibits, five appellate exhibits, and

---

<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel completed his review of the seven-volume record of trial and prepared and filed a twelve-page AOE in *U.S. v. Haymond*, ACM 40588; assisted with preparing and filing two motions and a twenty-two page supplement to the petition for a grant of review before the CAAF in *U.S. v. Dawson*, ACM 24041, USCA Dkt. No. 25-0156/AF; completed his review on remand of the fourteen-volume record and prepared and filed a twenty-nine-page brief in *U.S. v. Driskill*, ACM 39889 (rem); prepared and presented a briefing for the Air Force Senior Defense Counsel Qualification Course; and participated in six practice oral arguments for two additional cases. Additionally, counsel was on leave on 2–4 May 2025 and was off for the Memorial Day holiday.

- one court exhibit; the transcript is 122 pages. Undersigned counsel has not yet begun reviewing the record of trial, but additional counsel has been detailed to this case.
- 4) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel has begun reviewing the record of trial in this case.
  - 5) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
  - 6) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
  - 7) *United States v. Myslow*, ACM 40668 – The record of trial is three volumes consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is eighty-five pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
  - 8) *United States v. Payton*, ACM 40669 – The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

9) *United States v. Mims*, ACM S32799 – The electronic record of trial is one volume consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 103 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

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

**WHEREFORE**, Appellant respectfully requests that this Honorable Court grant the requested fifth 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 28 May 2025.

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel

[REDACTED]

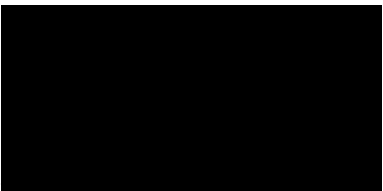




**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 1
Staff Sergeant (E-5)	)	
<b>JOSHUA J. POLLY ,</b>	)	No. ACM 40709
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	30 May 2025

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

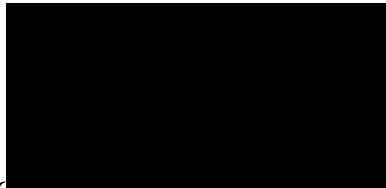
Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file Assignment of Error in this case.

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

  
JOCELYN Q. WRIGHT, Maj, USAF  
Appellate Government Counsel  
  
  
  


**CERTIFICATE OF FILING AND SERVICE**

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



JO [REDACTED] USAF  
Appellate Government Counsel



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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (SIXTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Staff Sergeant (E-5)	)	No. ACM 40709
<b>JOSHUA J. POLLY,</b>	)	
United States Air Force,	)	27 June 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a sixth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **4 August 2025**. The record of trial was docketed with this Court on 7 November 2024. From the date of docketing to the present date, 232 days have elapsed. On the date requested, 270 days will have elapsed.

On 16 April and 25–26 June 2024, a military judge sitting as a general court-martial at Cannon Air Force Base, New Mexico, found Appellant guilty, consistent with his pleas, of one charge and one specification of indecent language in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 151; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 28 August 2024. The military judge sentenced Appellant to reduction to the grade of E-1, confinement for five months, and a dishonorable discharge. R. at 241; EOJ. The convening authority took no action on the findings or the sentence but waived automatic forfeitures for the benefit of Appellant’s dependents. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Joshua J. Polly*, 5 August 2024.

The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing forty-two clients; twenty-five clients are pending initial AOE's before this Court.<sup>1</sup> Additionally, one client has an upcoming supplement to the petition for grant of review and another client has an answer brief, both before the United States Court of Appeals for the Armed Forces (CAAF). Eleven matters currently have priority over this case:

- 1) *United States v. Haymond*, ACM 40588 – The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Undersigned counsel is drafting a reply brief in this case.
- 2) *United States v. Driskill*, ACM 39889 (rem) – The record of trial is 14 volumes consisting of 14 prosecution exhibits, four defense exhibits, and 169 appellate exhibits; the transcript is 2,062 pages. Undersigned counsel is drafting a reply brief in this case.
- 3) *United States v. Keilberg*, ACM 40601 – The record of trial is four volumes consisting of thirteen prosecution exhibits, one defense exhibit, and seven appellate exhibits; the transcript is 118 pages. Undersigned counsel has reviewed the record of trial and begun drafting the AOE in this case.

---

<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel completed his review of the four-volume record of trial and began drafting the AOE in *U.S. v. Keilberg*, ACM 40601; petitioned the CAAF for a grant of review and began drafting the supplement to the petition in *U.S. v. York*, ACM 40604, USCA Dkt. No. 25-0200/AF; reviewed the Government's answer and began drafting a reply brief in *U.S. v. Haymond*, ACM 40588; and reviewed the Government's answer and began drafting a reply brief in *U.S. v. Driskill*, ACM 39889 (rem). Additionally, counsel was off for the Juneteenth holiday.

- 4) *United States v. York*, ACM 40604, USCA Dkt. No. 25-0200/AF – The record of trial is seven volumes consisting of five prosecution exhibits, two defense exhibits, 36 appellate exhibits, and one court exhibit; the transcript is 847 pages. Undersigned counsel has petitioned the CAAF for a grant of review and is drafting the supplement to the petition in this case.
- 5) *United States v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF – The record of trial is eight volumes consisting of 11 prosecution exhibits, nine defense exhibits, one court exhibit, and 71 appellate exhibits; the transcript is 703 pages. Undersigned counsel is reviewing the Government’s Brief in Support of the Certified Issue and preparing to draft an answer brief in this case.
- 6) *United States v. Jackson*, ACM S32780 – The record of trial is five volumes consisting of twelve prosecution exhibits, thirteen defense exhibits, five appellate exhibits, and one court exhibit; the transcript is 122 pages. Undersigned counsel has begun reviewing the record of trial, and additional counsel has been detailed to this case.
- 7) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel has begun reviewing the record of trial in this case.
- 8) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Undersigned counsel has begun reviewing the record of trial, and additional counsel has been detailed to this case.

- 9) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 10) *United States v. Payton*, ACM 40669 – The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 11) *United States v. Mims*, ACM S32799 – The electronic record of trial is one volume consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 103 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

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

**WHEREFORE**, Appellant respectfully requests that this Honorable Court grant the requested sixth 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,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
Staff Sergeant (E-5)	)	Before Panel No. 1
<b>JOSHUA J. POLLY ,</b>	)	No. ACM 40709
United States Air Force,	)	
<i>Appellant.</i>	)	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 Assignment of Error in this case.

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

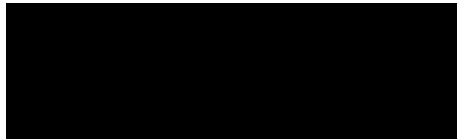
[Redacted Signature]

VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel

[Redacted Address]

**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.



VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel



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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (SEVENTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Staff Sergeant (E-5)	)	No. ACM 40709
<b>JOSHUA J. POLLY,</b>	)	
United States Air Force,	)	27 July 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a seventh enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **3 September 2025**. The record of trial was docketed with this Court on 7 November 2024. From the date of docketing to the present date, 262 days have elapsed. On the date requested, 300 days will have elapsed.

On 16 April and 25–26 June 2024, a military judge sitting as a general court-martial at Cannon Air Force Base, New Mexico, found Appellant guilty, consistent with his pleas, of one charge and one specification of indecent language in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 151; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 28 August 2024. The military judge sentenced Appellant to reduction to the grade of E-1, confinement for five months, and a dishonorable discharge. R. at 241; EOJ. The convening authority took no action on the findings or the sentence but waived automatic forfeitures for the benefit of Appellant’s dependents. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Joshua J. Polly*, 5 August 2024.

The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-five clients; twenty-one clients are pending initial AOE's before this Court.<sup>1</sup> Six matters currently have priority over this case:

- 1) *United States v. Jackson*, ACM S32780 – The record of trial is five volumes consisting of twelve prosecution exhibits, thirteen defense exhibits, five appellate exhibits, and one court exhibit; the transcript is 122 pages. Additional counsel has been detailed to this case, and counsel have drafted an AOE.
- 2) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Undersigned counsel has begun reviewing the record of trial, and additional counsel has been detailed to this case.
- 3) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel has begun reviewing the record of trial in this case.

---

<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a seven-page AOE in *U.S. v. Keilberg*, ACM 40601; prepared and filed a sixteen-page supplement to the petition for grant of review to the United States Court of Appeals for the Armed Forces (CAAF) in *U.S. v. York*, ACM 40604, USCA Dkt. No. 25-0200/AF; prepared and filed a two-page reply brief in *U.S. v. Haymond*, ACM 40588; prepared and filed an eight-page reply brief in *U.S. v. Driskill*, ACM 39889 (rem); prepared and filed a motion to withdraw from appellate review in *U.S. v. Harnar*, ACM 40559 (f rev); and prepared and filed an eleven-page answer brief to the CAAF in *U.S. v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF. Additionally, counsel was off for the Independence Day holiday and was on leave on 17–20 July 2025.

- 4) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 5) *United States v. Payton*, ACM 40669 – The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 6) *United States v. Mims*, ACM S32799 – The electronic record of trial is one volume consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 103 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

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

**WHEREFORE**, Appellant respectfully requests that this Honorable Court grant the requested seventh 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 July 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,	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
Staff Sergeant (E-5)	)	Before Panel No. 1
<b>JOSHUA J. POLLY</b> ,	)	No. ACM 40709
United States Air Force,	)	
<i>Appellant.</i>	)	28 July 2025

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

Pursuant to Rule 23.2 of this Court’s Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant’s Motion for Enlargement of Time to file 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 8-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.



VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel



**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 28 July 2025.

[REDACTED]

VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel

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

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (EIGHTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Staff Sergeant (E-5)	)	No. ACM 40709
<b>JOSHUA J. POLLY,</b>	)	
United States Air Force,	)	27 August 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an eighth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **3 October 2025**. The record of trial was docketed with this Court on 7 November 2024. From the date of docketing to the present date, 293 days have elapsed. On the date requested, 330 days will have elapsed.

On 16 April and 25–26 June 2024, a military judge sitting as a general court-martial at Cannon Air Force Base, New Mexico, found Appellant guilty, consistent with his pleas, of one charge and one specification of indecent language in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 151; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 28 August 2024. The military judge sentenced Appellant to reduction to the grade of E-1, confinement for five months, and a dishonorable discharge. R. at 241; EOJ. The convening authority took no action on the findings or the sentence but waived automatic forfeitures for the benefit of Appellant’s dependents. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Joshua J. Polly*, 5 August 2024.

The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-three clients; fifteen clients are pending initial AOE's before this Court.<sup>1</sup> Additionally, one client has an upcoming petition for grant of review and supplement to the petition, and another client has a scheduled oral argument, all before the United States Court of Appeals for the Armed Forces (CAAF). Five additional clients have upcoming petitions for a writ of certiorari before the Supreme Court of the United States. Six matters currently have priority over this case:

- 1) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Additional counsel has been detailed to this case and is drafting the AOE.
- 2) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has begun reviewing the record of trial in this case.

---



<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a six-page motion for summary disposition to the CAAF in *U.S. v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF; prepared and filed a nine-page answer to the Government's petition for reconsideration before the CAAF in *U.S. v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF; completed his review of the seven-volume record of trial and prepared and filed a 24-page AOE in *U.S. v. Banks*, ACM 24057; prepared and filed a six-page reply in *U.S. v. Keilberg*, ACM 40601; prepared and filed a four-page motion for leave to file motion for remand and motion for remand in *U.S. v. Payton*, ACM 40669; and began reviewing the record of trial in *U.S. v. Simmons*, ACM 40658. Additionally, counsel was on leave on 1–5 and 22–25 August 2025.

- 3) *United States v. Payton*, ACM 40669 – The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Undersigned counsel has begun reviewing the record of trial and filed a motion for remand in this case.
- 4) *United States v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 24-0146/AF – The record of trial is nine volumes consisting of 14 prosecution exhibits, 16 defense exhibits, one court exhibit, and 47 appellate exhibits; the transcript is 896 pages. Undersigned counsel is preparing to petition the Supreme Court of the United States for a writ of certiorari in this case.
- 5) *United States v. Soloshenko*, ACM 40581 – The electronic record of trial is two volumes consisting of seven prosecution exhibits, two defense exhibits, twenty-seven appellate exhibits, and one court exhibit; the transcript is 773 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.
- 6) *United States v. Mims*, ACM S32799 – The electronic record of trial is one volume consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 103 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

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

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

Respectfully submitted,

  
FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  


**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 27 August 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,	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 1
Staff Sergeant (E-5)	)	
<b>JOSHUA J. POLLY ,</b>	)	No. ACM 40709
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	28 August 2025

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 330 days in length. Appellant’s nearly year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed almost two-thirds of the 7-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]

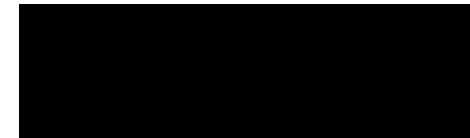
[REDACTED]

[REDACTED]

[REDACTED]

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 28 August 2025.



VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel



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

<b>UNITED STATES</b> <i>Appellee</i>	)	<b>No. ACM 40709</b>
	)	
	)	
<b>v.</b>	)	
	)	<b>ORDER</b>
<b>Joshua J. POLLY</b>	)	
<b>Staff Sergeant (E-5)</b>	)	
<b>U.S. Air Force</b>	)	
<i>Appellant</i>	)	<b>Panel 1</b>

On 23 September 2025, Appellant submitted a Motion for Enlargement of Time (Ninth) requesting an additional 30 days to submit Appellant’s assignments of error. The Government opposed the motion and noted that “[i]f Appellant’s new delay request is granted, the defense delay in this case will be 360 days in length.”

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

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

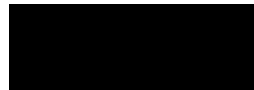
**ORDERED:**

Appellant’s Motion for Enlargement of Time (Ninth) is **GRANTED**. Appellant shall file any assignments of error not later than **2 November 2025**.

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



FOR THE COURT



CAROL K. JOYCE  
Clerk of the Court

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (NINTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Staff Sergeant (E-5)	)	No. ACM 40709
<b>JOSHUA J. POLLY,</b>	)	
United States Air Force,	)	23 September 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a ninth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **2 November 2025**. The record of trial was docketed with this Court on 7 November 2024. From the date of docketing to the present date, 320 days have elapsed. On the date requested, 360 days will have elapsed.

On 16 April and 25–26 June 2024, a military judge sitting as a general court-martial at Cannon Air Force Base, New Mexico, found Appellant guilty, consistent with his pleas, of one charge and one specification of indecent language in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 151; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 28 August 2024. The military judge sentenced Appellant to reduction to the grade of E-1, confinement for five months, and a dishonorable discharge. R. at 241; EOJ. The convening authority took no action on the findings or the sentence but waived automatic forfeitures for the benefit of Appellant’s dependents. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Joshua J. Polly*, 5 August 2024.

The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-one clients; twelve clients are pending initial AOE's before this Court.<sup>1</sup> Additionally, two clients have upcoming petitions for grant of review and supplements to the petitions before the United States Court of Appeals for the Armed Forces (CAAF). Four additional clients have upcoming petitions for a writ of certiorari before the Supreme Court of the United States. Five matters currently have priority over this case:

- 1) *United States v. Zhong*, ACM 40354, USCA Dkt. No. 24-0146/AF – ACM 40411, USCA Dkt. No. 25-0011/AF – The record of trial is four volumes consisting of 14 prosecution exhibits, 11 defense exhibits, 12 appellate exhibits, and one court exhibit; the transcript is 482 pages. Undersigned counsel is preparing to petition the Supreme Court of the United States for a writ of certiorari in this case.
- 2) *United States v. Soloshenko*, ACM 40581 – The electronic record of trial is two volumes consisting of seven prosecution exhibits, two defense exhibits, twenty-seven

---

<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a six-page motion for reconsideration with suggestion for *en banc* consideration and a motion to withdraw from appellate review in *U.S. v. Payton*, ACM 40669; completed his review of the four-volume record of trial and prepared and filed a four-page AOE in *U.S. v. Simmons*, ACM 40658; prepared and filed a two-page motion for oral argument in *U.S. v. Casillas*, ACM 40551; reviewed and edited a 45-page petition for a writ of certiorari in *U.S. v. Dawson*, ACM 24041, USCA Dkt. No. 25-0156/AF; and participated in a practice oral argument for one additional case. Additionally, counsel was on leave on 12 and 16 September 2025, was off for the Labor Day holiday, and attended the virtual preliminary hearing officer and legal advisor course on 3–4 September 2025.

appellate exhibits, and one court exhibit; the transcript is 773 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.

- 3) *United States v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 24-0146/AF – The record of trial is nine volumes consisting of 14 prosecution exhibits, 16 defense exhibits, one court exhibit, and 47 appellate exhibits; the transcript is 896 pages. Undersigned counsel is drafting a brief on remand in this case.
- 4) *United States v. Casillas*, ACM 40499 (f rev) – The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Undersigned counsel is reviewing the record of trial in this case.
- 5) *United States v. Mims*, ACM S32799 – The electronic record of trial is one volume consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 103 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

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

**WHEREFORE**, Appellant respectfully requests that this Honorable Court grant the requested ninth 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 23 September 2025.

Respectfully submitted,

A solid black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel

A large black rectangular redaction box covering contact information, including a phone number and email address.

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

UNITED STATES,	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 1
Staff Sergeant (E-5)	)	
<b>JOSHUA J. POLLY ,</b>	)	No. ACM 40709
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	24 September 2025

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

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

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

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

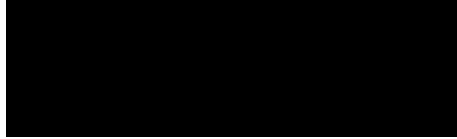


VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel



**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 24 September 2025.



VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel



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

<b>UNITED STATES,</b> <i>Appellee,</i>	)	<b>CONSENT MOTION TO EXAMINE SEALED MATERIALS</b>
	)	
	)	
	)	
v.	)	Before Panel No. 1
	)	
Staff Sergeant (E-5)	)	No. ACM 40709
<b>JOSHUA J. POLLY,</b>	)	
United States Air Force,	)	29 October 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule for Courts-Martial (R.C.M.) 1113(b)(3)(B)(i) and Rules 3.1, 23.1(b), and 23.3(f)(1) of this Court’s Rules of Practice and Procedure, Appellant, Staff Sergeant Joshua J. Polly, hereby moves this Court to permit appellate counsel for the Appellant and the Government to examine Appellate Exhibits VII, XIX–XXI, XXIX, XXXIII, XXXV, XLVII–LIII, and LXIII–LXXV; Court Exhibit A; PHO Exhibit 6; and transcript pages 49–64 and 159–199 in Appellant’s record of trial.

**Facts**

On 16 April and 25–26 June 2024, a military judge sitting as a general court-martial at Cannon Air Force Base, New Mexico, found Appellant guilty, consistent with his pleas, of one charge and one specification of indecent language in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 151. In the course of the proceedings, trial defense counsel filed a motion in limine to exclude evidence under Mil. R. Evid. 504, two motions to admit evidence under Mil. R. Evid. 412, a request for discharge in lieu of trial by court-martial, two motions to compel discovery, a motion to dismiss or abate proceedings, a motion to compel witness production, and a motion for a continuance. App. Exs. VII, XIX, XXXIII, XLVII, LXIII, LXVII,

LXX, LXXII, LXXIV. Trial counsel and victim’s counsel filed responses to some of these motions, including the motions to admit evidence under Mil. R. Evid. 412, the motions to compel discovery, and the motion to dismiss or abate proceedings. App. Exs. XXI, XXIX, LI, LII, LXVI, LXIX. The military judge heard arguments regarding these motions and related matters during two closed Article 39(a), UCMJ, sessions. R. at 48, 158. The military judge ordered that the filings related to these motions, which consist of Appellate Exhibits VII, XIX–XXI, XXIX, XXXIII, XXXV, XLVII–LIII, and LXIII–LXXV, be sealed. App. Ex. LXXXII. The court also sealed Court Exhibit A. Exhibit Index, 5. Additionally, the Preliminary Hearing Officer (PHO) ordered PHO Exhibit 6 sealed. Preliminary Hearing Officer’s Report, Oct. 12, 2023.

### **Law**

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

Air Force regulations governing professional duties and conduct of appellate defense counsel impose upon counsel, *inter alia*, a duty to provide “competent representation,” perform “reasonable diligence,” and to “give a client his or her best professional evaluation of the questions that might be presented on appeal...[to] consider all issues that might affect the validity of the judgment of conviction and sentence...[to] advise on the probable outcome of a challenge to the conviction or sentence...[and to] endeavor to persuade the client to abandon a wholly frivolous appeal or to eliminate contentions lacking in substance.” Air Force Instruction (AFI)

51-110, *Professional Responsibility Program*, Attachment 2: Air Force Rules of Professional Conduct, Rule 1.1, Attachment 7: Air Force Standards for Criminal Justice, Standard 4-8.3(b) (11 December 2018). These requirements are consistent with those imposed by the state bar to which counsel belongs.<sup>1</sup>

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

### **Analysis**

The sealed materials include twenty-seven appellate exhibits, one court exhibit, and one PHO exhibit, all of which were “presented” and “reviewed” by the parties at trial or the preliminary hearing. R.C.M. 1113(b)(3)(B)(i). Similarly, the sealed portions of the transcript record proceedings in which the parties participated. It is reasonably necessary for Appellant’s counsel to review these sealed materials for counsel to competently conduct a professional evaluation of Appellant’s case and uncover all issues which might afford him relief. Because examination of the materials in question is reasonably necessary to the fulfillment of counsel’s Article 70, UCMJ duties, and because the materials were available to the parties at trial or the preliminary hearing, Appellant has provided the “colorable showing” required by R.C.M. 1113(b)(3)(B)(i) to permit his counsel’s examination of these sealed materials and has shown

---

<sup>1</sup> Counsel of record is licensed to practice law in Georgia.

good cause to grant this motion.

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

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

Respectfully submitted,

A solid black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel

A solid black rectangular redaction box covering the contact information of Frederick J. Johnson.

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 29 October 2025.

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel

[REDACTED]

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (TENTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Staff Sergeant (E-5)	)	No. ACM 40709
<b>JOSHUA J. POLLY,</b>	)	
United States Air Force,	)	23 October 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a tenth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **2 December 2025**. The record of trial was docketed with this Court on 7 November 2024. From the date of docketing to the present date, 350 days have elapsed. On the date requested, 390 days will have elapsed.

On 16 April and 25–26 June 2024, a military judge sitting as a general court-martial at Cannon Air Force Base, New Mexico, found Appellant guilty, consistent with his pleas, of one charge and one specification of indecent language in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 151; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 28 August 2024. The military judge sentenced Appellant to reduction to the grade of E-1, confinement for five months, and a dishonorable discharge. R. at 241; EOJ. The convening authority took no action on the findings or the sentence but waived automatic forfeitures for the benefit of Appellant’s dependents. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Joshua J. Polly*, 5 August 2024.

The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Appellant is not currently confined. Undersigned counsel has begun reviewing the record of trial in this case.

Counsel is currently representing thirty-three clients; twelve clients are pending initial AOE's before this Court.<sup>1</sup> Additionally, one client has an upcoming petition for grant of review and supplement to the petition before the United States Court of Appeals for the Armed Forces (CAAF). Four additional clients have upcoming petitions for a writ of certiorari before the Supreme Court of the United States. Three matters currently have priority over this case:

- 1) *United States v. Casillas*, ACM 40551 – The record of trial is ten volumes consisting of nineteen prosecution exhibits, four defense exhibits, and sixty-five appellate exhibits; the transcript is 1627 pages. Undersigned counsel has drafted a response to the Government's motion for reconsideration in this case.
- 2) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the

---

<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel filed a petition for grant of review to the CAAF and prepared and filed a sixteen-page supplement to the petition in *U.S. v. Soloshenko*, ACM 40581, USCA Dkt. No. 25-0273/SF; filed an application for an extension of time to file a petition for a writ of certiorari in *Schneider, et al. v. U.S.*; reviewed the record and prepared and filed a four-page supplement to the petition for grant of review to the CAAF in *U.S. v. Adams*, ACM 22018, USCA Dkt. No. 25-0270/AF; filed an application for an extension of time to file a petition for a writ of certiorari in *Zhong v. U.S.*, ACM 40354, USCA Dkt. No. 24-0146/AF; prepared and filed a six-page brief on remand in *U.S. v. Navarro Aguirre*, ACM 40354 (rem); began reviewing the record of trial in this case; drafted a seven-page response to the Government's motion for reconsideration in *U.S. v. Casillas*, ACM 40551; and participated in twelve practice oral arguments for six additional cases. Additionally, counsel was off for the Columbus Day holiday and attended the Joint Appellate Advocacy Training on 25–26 September 2025.

transcript is 985 pages. Undersigned counsel anticipates drafting a reply after the Government files its answer, which is currently due on 24 October 2025.

- 3) *United States v. Mims*, ACM S32799 – The electronic record of trial is one volume consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 103 pages. Undersigned counsel has not yet begun reviewing the record of trial, but additional counsel has been detailed to this case.

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

**WHEREFORE**, Appellant respectfully requests that this Honorable Court grant the requested tenth 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 23 October 2025.

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel

[REDACTED]

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

<b>UNITED STATES,</b>	)	UNITED STATES’
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME
v.	)	
	)	Before Panel No. 1
Staff Sergeant (E-5)	)	
<b>JOSHUA J. POLLY,</b>	)	No. ACM 40709
United States Air Force.	)	
<i>Appellant</i>	)	27 October 2025

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 390 days in length. Appellant’s 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 5 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not completed review of the record of trial at this late stage of the appellate process.

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

[REDACTED]

VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 27 October 2025.

[REDACTED]

VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel

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

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

**UNITED STATES,**

*Appellee,*

v.

Staff Sergeant (E-5)

**JOSHUA J. POLLY,**

United States Air Force,

*Appellant.*

**BRIEF ON BEHALF OF  
APPELLANT**

Before Panel No. 1

No. ACM 40709

2 December 2025

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

**Assignment of Error**

**Whether the Government can prove that 18 U.S.C. § 922 is constitutional as applied to Staff Sergeant Polly when he was convicted of offenses that do not fall within the Nation’s historical tradition of firearm regulation.**

**Statement of the Case**

On 26 June 2024, a military judge sitting as a general court-martial at Pope Army Airfield, North Carolina, found Appellant, Staff Sergeant (SSgt) Joshua Polly, guilty, consistent with his pleas, of one charge and one specification of indecent language in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 68, 151. The military judge sentenced SSgt Polly to reduction to the grade of E-1, confinement for five months, and a dishonorable discharge. R. at 241. The convening authority took no action on the findings or the sentence but waived automatic forfeitures for the benefit of SSgt Polly’s dependents. Convening Authority Decision on Action – *United States v. Staff Sergeant Joshua J. Polly*, Aug. 5, 2024.

**Statement of Facts**

While deployed to Camp Lemonnier, Djibouti, SSgt Polly was struggling with marital issues, including his wife’s affair with another man. R. at 115, 226. He received a text message

from S.R., a 13-year-old friend of his family whom he knew from his time in North Carolina. R. at 115; Pros. Ex. 1 at 1–2. SSgt Polly and S.R. exchanged a series of messages about SSgt Polly’s wife and her actions, with SSgt Polly expressing frustration. R. at 115; Pros. Ex. 1 at Attachment. These messages included SSgt Polly’s graphic descriptions of his wife’s body and her sexual activity. R. at 11; Pros. Ex. 1 at Attachment. S.R.’s father found these messages and confronted SSgt Polly over text message, and SSgt Polly apologized for discussing sexual topics with S.R. Pros. Ex. 1 at Attachment.

SSgt Polly pleaded guilty to one specification of indecent language to a child under the age of sixteen. R. at 151. The first indorsements to both the entry of judgment (EOJ) and statement of trial results (STR) state that SSgt Polly is subject to a “Firearm Prohibition Triggered Under 18 U.S.C. § 922.” EOJ, Aug. 28, 2024; STR, June 26, 2024.

### **Argument**

**The Government cannot prove that 18 U.S.C. § 922 is constitutional as applied to Staff Sergeant Polly because he was convicted of offenses that do not fall within the Nation’s historical tradition of firearm regulation.**

#### *Standard of Review*

Whether post-trial processing was properly completed is reviewed de novo. *United States v. Zegarrundo*, 77 M.J. 612, 613–14 (A.F. Ct. Crim. App. 2018) (citing *United States v. Kho*, 54 M.J. 63, 65 (C.A.A.F. 2000)). This Court reviews questions of jurisdiction, law, and statutory interpretation de novo. *United States v. Lepore*, 81 M.J. 759, 760–61 (A.F. Ct. Crim. App. 2021).



#### *Law and Analysis*

SSgt Polly acknowledges that the United States Court of Appeals for the Armed Forces (CAAF) recently held that this Court lacks the authority to act upon the indication of a firearm prohibition under 10 U.S.C. § 922. *United States v. Johnson*, \_\_ M.J. \_\_, No. 24-0004/SF, 2025

CAAF LEXIS 499, at \*2 (C.A.A.F. June 24, 2025). However, SSgt Polly asserts that *Johnson* was wrongly decided and that the firearm prohibition indicated on the first indorsement to the EOJ is unconstitutional, as applied, because the offenses to which he pleaded guilty do not fall within the Nation’s historical tradition of firearm regulation. *See N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 17 (2022) (holding that the Government must justify a firearm regulation by demonstrating that it is “consistent with this Nation’s historical tradition of firearm regulation”). He raises this issue for preservation purposes.

SSgt Polly respectfully requests that this Court hold that 18 U.S.C. § 922 is unconstitutional as applied to him.

Respectfully submitted,

  
FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  


**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 2 December 2025.

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel

[REDACTED]

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

<b>UNITED STATES,</b>	)	<b>UNITED STATES' ANSWER TO</b>
<i>Appellee,</i>	)	<b>ASSIGNMENT OF ERROR</b>
	)	
v.	)	Before Panel No. 1
	)	
Staff Sergeant (E-5)	)	No. ACM 40709
<b>JOSHUA J. POLLY, USAF,</b>	)	
<i>Appellant.</i>	)	30 December 2025

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

**ASSIGNMENT OF ERROR**

**WHETHER THE GOVERNMENT CAN PROVE THAT 18  
U.S.C. § 922 IS CONSTITUTIONAL AS APPLIED TO  
[APPELLANT] WHEN HE WAS CONVICTED OF  
OFFENSES THAT DO NOT FALL WITHIN THE NATION'S  
HISTORICAL TRADITION OF FIREARM REGULATION.**

**STATEMENT OF CASE**

The United States accepts Appellant's statement of the case.

**STATEMENT OF FACTS**

The United States accepts Appellant's statement of the facts.

**ARGUMENT**

**TITLE 18 U.S.C. § 922 IS CONSTITUTIONAL AND THIS  
COURT LACKS AUTHORITY TO MODIFY THE  
STATUTE'S INDICATION ON THE ENTRY OF  
JUDGMENT, AND APPLICATION OF § 922 TO  
APPELLANT, WHO WAS CONVICTED OF A FELONY  
INVOLVING A CHILD, IS CONSTITUTIONAL.**

***Standard of Review***

This Court reviews *de novo* questions of jurisdiction. United States v. Johnson, \_\_\_ M.J.  
\_\_\_, No. 24-0004/AF, 2025 CAAF LEXIS 499 (C.A.A.F. 24 June 2025).

### *Law and Analysis*

Appellant claims the Court of Appeals for the Armed Forces (CAAF) in Johnson, was wrong and that the firearm prohibition indicated on the first indorsement to the entry of judgment (EOJ) is unconstitutional, as applied, because the offenses to which he pleaded guilty do not fall within the Nation’s “historical tradition of firearm regulation.” (App. Br. at 3) (citation omitted). However, CAAF correctly concluded Courts of Criminal Appeals, such as this Court, lack “authority to modify the 18 U.S. Code § 922 indication” in the EOJ. Id. at \*13-14. Since CAAF issued the Johnson opinion, this Court has, as it must, repeatedly followed it. *See, e.g., United States v. Cabrie*, No. ACM 40615, 2025 CCA LEXIS 552 (A.F. Ct. Crim. App. 3 December 2025); United States v. Keilberg, No. ACM 40601, 2025 CCA LEXIS 481 (A.F. Ct. Crim. App. 22 October 2025); United States v. Myslow, No. ACM 40668, 2025 CCA LEXIS 473 (A.F. Ct. Crim. App. 10 October 2025).

Even if this Court had authority to modify the § 922 indication on the EOJ, it should not do so in this case. The Second Amendment provides: “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” U.S. CONST., amend. II. But as the Supreme Court has repeatedly emphasized, “the right secured by the Second Amendment is not unlimited.” District of Columbia v. Heller, 554 U.S. 570, 626 (2008); *see N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 20 (2022); McDonald v. City of Chicago, 561 U.S. 742, 786 (2010) (plurality opinion). “[T]he right was *never* thought to sweep indiscriminately.” United States v. Rahimi, 602 U.S. 680, 691 (2024) (citing Heller, 554 U.S. at 626.). The history of firearms regulation reflects “a concern with keeping firearms out of the hands of categories of potentially irresponsible persons, including convicted felons,” Barrett v. United States, 423 U.S. 212, 220 (1976), and “an intent to impose a firearms disability on *any* felon based

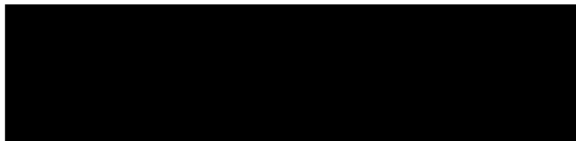
on the fact of conviction.” Lewis v. United States, 445 U.S. 55, 62 (1980) (emphasis added). Firearms prohibitions for felons are “presumptively lawful.” Rahimi, 602 U.S. at 699 (citing Heller, 554 U.S. at 626). Because Appellant has been convicted by a general court-martial of a felony involving a child, application of 18 U.S.C. 922(g) to him is constitutional. Thus, this Court should reject Appellant’s assignment of error.

**CONCLUSION**

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



STEVEN R. KAUFMAN  
Appellate Government Counsel

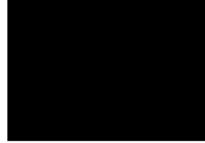


MARY ELLEN PAYNE  
Associate Chief  
Government Trial and Appellate Operations Division



**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 (Maj Frederick J. Johnson) on 30 December 2025.



STEVEN R. KAUFMAN  
Appellate Government Counsel



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

<b>UNITED STATES</b>	)	<b>No. ACM 40709</b>
<i>Appellee</i>	)	
	)	
<b>v.</b>	)	
	)	<b>ORDER</b>
<b>Joshua J. POLLY</b>	)	
<b>Staff Sergeant (E-5)</b>	)	
<b>U.S. Air Force</b>	)	
<i>Appellant</i>	)	<b>Panel 1</b>

The military judge convicted Appellant, in accordance with his pleas and pursuant to a plea agreement, of one specification of indecent language to a child who had not attained the age of 16, in violation Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934, “to wit: texting [SR] about details of his wife’s vagina and her sex life such as, ‘she is wet and a slut so that will do wonders. But I was finally somewhat honest w her. Her weight has a lot to do w why I get soft,’ and that such conduct was of a nature to bring discredit upon the armed forces.”

At the time of the offense, Article 120b(c), UCMJ, 10 U.S.C. § 920b(c), *Sexual Abuse of a Child*, included a prohibition against committing lewd acts upon a child. Congress defined a “lewd act” to include “intentionally communicating indecent language to a child by any means . . . with an intent to abuse, humiliate, or degrade any person, or to arouse or gratify the sexual desire of any person.” *Manual for Courts-Martial, United States* (2019 ed.) (*MCM*), pt. IV, ¶ 63.a.(h)(5)(C).

Also, at the time of the offense, Article 134, UCMJ, 10 U.S.C. § 934, *Indecent Language*, prohibited indecent language, defined as “that which is grossly offensive to modesty, decency, or propriety, or shocks the moral sense, because of its vulgar, filthy, or disgusting nature, or its tendency to incite lustful thought.” *MCM*, pt. IV, ¶ 105.c. “Language is indecent if it tends reasonably to corrupt morals or incite libidinous thoughts. The language must violate community standards.” *Id.* Where the victim is a child under the age of 16, this must be proven as well.

The court has reviewed the record, to include the plea agreement, Appellant’s stipulation of fact, the providence inquiry, and text messages between Appellant and SR.

This court specifies the following issue for supplemental briefing in the above-captioned case:

**WHETHER APPELLANT'S CONVICTION UNDER ARTICLE 134, UCMJ, WAS BARRED BY THE PREEMPTION DOCTRINE BECAUSE THE MISCONDUCT IS COVERED BY ARTICLE 120b(c), UCMJ, 10 U.S.C. § 920b(c); AND IF SO, WHAT WOULD BE THE APPROPRIATE REMEDY.\***

Accordingly, it is by the court on this 27th day of March, 2026,

**ORDERED:**

Appellant and Appellee shall file briefs on the specified issue with the court **not later than 20 April 2026**. No further briefs will be permitted without leave from the court.

FOR THE COURT



CAROL K. JOYCE  
Clerk of the Court

---

\* The parties should address in their briefs the application of our superior court's holding in *United States v. Avery*, 79 M.J. 363 (C.A.A.F. 2020); specifically whether the factual basis provided in Appellant's guilty plea inquiry, and text messages attached to the stipulation of fact, constitute indecent language to a child as sexual in nature and thus preempted by Article 120b(c), UCMJ.

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION TO</b>
<i>Appellee,</i>	)	<b>WITHDRAW FROM APPELLATE</b>
	)	<b>REVIEW AND MOTION TO ATTACH</b>
	)	<b>A DOCUMENT</b>
v.	)	
	)	Before Panel No. 1
Staff Sergeant (E-5)	)	
<b>JOSHUA J. POLLY,</b>	)	No. ACM 40709
United States Air Force,	)	
<i>Appellant.</i>	)	3 April 2026

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

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

Further, pursuant to Rules 23(b) and 23.3(b) of this Honorable Court’s Rules of Practice and Procedure, Appellant asks this Court to attach the eight-page document appended to this pleading to Appellant’s Record of Trial. The document is Appellant’s completed Department of Defense Form 2330, *Waiver/Withdrawal of Appellate Rights in General and Special Courts-Martial Subject to Review by a Court of Criminal Appeals*, to include the entry of judgment referenced in the top line of the form, and is therefore necessary to comply with R.C.M. 1115(d) and Rule 16.1 of this Court’s Rules of Practice and Procedure.

This Court should grant this motion to withdraw from appellate review and attach the requested document to the record.

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel



Counsel for Appellant

### **Appendix**

1. Department of Defense Form 2330, *Waiver/Withdrawal of Appellate Rights in General and Special Courts-Martial Subject to Review by a Court of Criminal Appeals*, 31 March 2026, 8 pages.

**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 3 April 2026.

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel

[REDACTED]