

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
	)	TIME (FIRST)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40285
ANTHONY S. ARBO,)	
United States Air Force	)	8 July 2022
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(2) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his first enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **22 September 2022**. The record of trial was docketed with this Court on 25 May 2022. From the date of docketing to the present date, 44 days have elapsed. On the date requested, 120 days will have elapsed.

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

Respectfully submitted,



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

GRANTED

11 JULY 2022

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 8 July 2022.

Respectfully submitted,

Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Staff Sergeant (E-5)	)	ACM 40285
ANTHONY S. ARBO, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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


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

✓ JOHN P. PATERA, Maj, USAF
Appellate Government Counsel, Government Trial
and Appellate Operations Division
Military Justice and Discipline
United States Air Force

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force

Appellate Defense Division on 11 July 2022.


/ JOHN P. PATERA, Maj, USAF
Appellate Government Counsel, Government Trial
and Appellate Operations Division
Military Justice and Discipline
United States Air Force

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
<i>Appellee</i>	)	TIME (SECOND)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40285
ANTHONY S. ARBO,)	
United States Air Force	)	14 September 2022
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(3) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **22 October 2022**. The record of trial was docketed with this Court on 25 May 2022. From the date of docketing to the present date, 112 days have elapsed. On the date requested, 150 days will have elapsed.

On 8 March 2022, pursuant to his pleas,¹ Appellant was convicted at a general court-martial convened at Joint Base Andrews NAF, Maryland, of one charge and one specification of wrongful distribution of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), one charge and two specifications of attempted wrongful receipt of child pornography in violation of Article 80, UCMJ, and one charge and one specification of sexual abuse of a child ion of Article 120b, UCMJ. R. at 84. A military judge sentenced Appellant to be ded, to be reduced to the grade of E-1, to forfeit all pay and allowances, to be confined



GRANTED
16 SEP 2022

¹ Pursuant to his plea agreement, one charge and two specifications of willful dereliction of duty, in violation of Article 92, UCMJ, were withdrawn and dismissed without prejudice. ROT, Vol. 1, Entry of Judgment (EOJ), dated 18 April 2022.

for a total of 18 months,² and to be discharged with a bad conduct discharge. R. at 118; ROT, Vol. 1, EOJ. The convening authority took no action on the findings or sentence. ROT, Vol. 1, Decision on Action, dated 4 April 2022.

The record of trial consists of 6 prosecution exhibits, 2 defense exhibits, and 6 appellate exhibits; the transcript is 118 pages. Appellant is currently confined.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters and not yet begun her review of Appellant's case. Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,

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

² Appellant was sentenced to be confined for 18 months (for the Specification of Charge I), to be confined for 9 months (for Specification 1 of Charge II), and to be confined 12 months (for Specification 2 of Charge II), and to be confined for 18 months (the Specification of Charge III), with all the sentences running concurrently. R. at 118.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 14 September 2022.

Respectfully submitted,

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Staff Sergeant (E-5)	)	ACM 40285
ANTHONY S. ARBO, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

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

THOMAS J. ALFORD, Lt Col, USAFR
Appellate Government Counsel, Government
Trial and Appellate Operations Division
Military Justice and Discipline
United States Air Force

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 15 September 2022.

THOMAS J. ALFORD, Lt Col, USAFR
Appellate Government Counsel, Government
Trial and Appellate Operations Division
Military Justice and Discipline
United States Air Force

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
	)	TIME (THIRD)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40285
ANTHONY S. ARBO,)	
United States Air Force	)	14 October 2022
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(3) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **21 November 2022**. The record of trial was docketed with this Court on 25 May 2022. From the date of docketing to the present date, 142 days have elapsed. On the date requested, 180 days will have elapsed.

On 8 March 2022, pursuant to his pleas,¹ Appellant was convicted at a general court-martial convened at Joint Base Andrews NAF, Maryland, of one charge and one specification of wrongful distribution of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), one charge and two specifications of attempted wrongful receipt of child pornography in violation of Article 80, UCMJ, and one charge and one specification of sexual abuse of a child

in violation of Article 120b, UCMJ. R. at 84. A military judge sentenced Appellant to be

confined, to be reduced to the grade of E-1, to forfeit all pay and allowances, to be confined



GRANTED
18 OCT 2022

¹ Pursuant to his plea agreement, one charge and two specifications of willful dereliction of duty, in violation of Article 92, UCMJ, were withdrawn and dismissed without prejudice. ROT, Vol. 1, Entry of Judgment (EOJ), dated 18 April 2022.

for a total of 18 months,² and to be discharged with a bad conduct discharge. R. at 118; ROT, Vol. 1, EOJ. The convening authority took no action on the findings or sentence. ROT, Vol. 1, Decision on Action, dated 4 April 2022.

The record of trial consists of 6 prosecution exhibits, 2 defense exhibits, and 6 appellate exhibits; the transcript is 118 pages. Appellant is currently confined.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters and not yet begun her review of Appellant's case. Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,

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

² Appellant was sentenced to be confined for 18 months (for the Specification of Charge I), to be confined for 9 months (for Specification 1 of Charge II), and to be confined 12 months (for Specification 2 of Charge II), and to be confined for 18 months (the Specification of Charge III), with all the sentences running concurrently. R. at 118.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 14 October 2022.

Respectfully submitted,

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Staff Sergeant (E-5)	)	ACM 40285
ANTHONY S. ARBO, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

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

OLIVIA B. HOFF, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and the Air Force Appellate Defense Division on 17 October 2022.

OLIVIA B. HOFF, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
	)	TIME (FOURTH)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40285
ANTHONY S. ARBO,)	
United States Air Force	)	14 November 2022
<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 (m)(6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **21 December 2022**. The record of trial was docketed with this Court on 25 May 2022. From the date of docketing to the present date, 173 days have elapsed. On the date requested, 210 days will have elapsed.

On 8 March 2022, pursuant to his pleas,¹ Appellant was convicted at a general court-martial convened at Joint Base Andrews NAF, Maryland, of one charge and one specification of wrongful distribution of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), one charge and two specifications of attempted wrongful receipt of child pornography in violation of Article 80, UCMJ, and one charge and one specification of sexual abuse of a child in violation of Article 120b, UCMJ. R. at 84. A military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances, to be confined



_____ his plea agreement, one charge and two specifications of willful dereliction of duty, of Article 92, UCMJ, were withdrawn and dismissed without prejudice. ROT, Vol. 1, ment (EOJ), dated 18 April 2022.

GRANTED
16 NOVEMBER 2022

for a total of 18 months,² and to be discharged with a bad conduct discharge. R. at 118; ROT, Vol. 1, EOJ. The convening authority took no action on the findings or sentence. ROT, Vol. 1, Decision on Action, dated 4 April 2022.

The record of trial consists of 6 prosecution exhibits, 2 defense exhibits, and 6 appellate exhibits; the transcript is 118 pages. Appellant is currently confined.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters³ and has yet to complete her review of Appellant's case. Counsel is currently assigned 22 cases; 10 cases are pending initial AOE's before this Court. This is military counsel's fifth priority case, and fourth priority case before this Court. The following cases⁴ have priority over the present case:

1. *United States v. Witt*, ACM 36785 (reh), USCA Dkt No. 22-0090/AF – Counsel will be presenting oral argument before the CAAF on 6 December 2022.

2. *United States v. Jones*, ACM 40226 – The record of trial is 10 volumes; the trial transcript is 1070 pages. There are 13 prosecution exhibits, 11 defense exhibits, and 68 appellate exhibits. Counsel is reviewing Appellant's ROT.

² Appellant was sentenced to be confined for 18 months (for the Specification of Charge I), to be confined for 9 months (for Specification 1 of Charge II), and to be confined 12 months (for Specification 2 of Charge II), and to be confined for 18 months (the Specification of Charge III), with all the sentences running concurrently. R. at 118.

³ Since the filing of Appellant's last EOT, counsel filed a lengthy brief in *United States v. Kitchen*, ACM 40155 on 17 October 2022, submitted a reply brief in *United States v. Ramirez*, ACM S32538 (f rev) on 18 October 2022, was second chair for the *United States v. Anderson* oral argument at the Court of Appeals for the Armed Forces (CAAF) on 25 October 2022, and filed a supplement to petition for grant of review to the CAAF in *United States v. Torello*, ACM S32691 on 7 November 2022.

⁴ Counsel also has a supplement to petition for grant of review due to the CAAF in *United States v. Daniels III*, ACM 39407 (rem) on 16 November 2022.

3. *United States v McTheny*, ACM S32725 – The record of trial is 2 volumes; the trial transcript is 108 pages. There are 3 prosecution exhibits, 5 defense exhibits, and 4 appellate exhibits. Counsel has not yet begun her review of Appellant’s ROT.

4. *United States v Robles*, ACM 40280 – The record of trial is 8 volumes; the trial transcript is 399 pages. There are 18 prosecution exhibits, 6 defense exhibits, and 15 appellate exhibits. Counsel has not yet begun her review of Appellant’s ROT.

Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant’s case and advise Appellant regarding potential errors.

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

Respectfully submitted,

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

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 14 November 2022.

Respectfully submitted,

Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Staff Sergeant (E-5)	)	ACM 40285
ANTHONY S. ARBO, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

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

OLIVIA B. HOFF, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 15 November 2022.

OLIVIA B. HOFF, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
<i>Appellee</i>	)	TIME (FIFTH)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40285
ANTHONY S. ARBO,)	
United States Air Force	)	14 December 2022
<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 (m)(6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **20 January 2023**. The record of trial was docketed with this Court on 25 May 2022. From the date of docketing to the present date, 203 days have elapsed. On the date requested, 240 days will have elapsed.

On 8 March 2022, pursuant to his pleas,¹ Appellant was convicted at a general court-martial convened at Joint Base Andrews NAF, Maryland, of one charge and one specification of wrongful distribution of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), one charge and two specifications of attempted wrongful receipt of child pornography in violation of Article 80, UCMJ, and one charge and one specification of sexual abuse of a child in violation of Article 120b, UCMJ. R. at 84. A military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances, to be confined

¹ Pursuant to his plea agreement, one charge and two specifications of willful dereliction of duty, in violation of Article 92, UCMJ, were withdrawn and dismissed without prejudice. ROT, Vol. 1, Entry of Judgment (EOJ), dated 18 April 2022.

for a total of 18 months,² and to be discharged with a bad conduct discharge. R. at 118; ROT, Vol. 1, EOJ. The convening authority took no action on the findings or sentence. ROT, Vol. 1, Decision on Action, dated 4 April 2022.

The record of trial consists of 6 prosecution exhibits, 2 defense exhibits, and 6 appellate exhibits; the transcript is 118 pages. Appellant is currently confined.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters³ and has yet to complete her review of Appellant's case. Counsel is currently assigned 23 cases; 12 cases are pending initial AOE's before this Court. This is military counsel's fourth priority case before this Court. The following cases have priority over the present case:

1. *United States v. Jones*, ACM 40226 – The record of trial is 10 volumes; the trial transcript is 1070 pages. There are 13 prosecution exhibits, 11 defense exhibits, and 68 appellate exhibits. Counsel has reviewed approximately 700 pages of Appellant's transcript.

2. *United States v McTheny*, ACM S32725 – The record of trial is 2 volumes; the trial transcript is 108 pages. There are 3 prosecution exhibits, 5 defense exhibits, and 4 appellate exhibits. Counsel has completed her review of Appellant's ROT and is consulting with Appellant on issues to raise before this Court.

² Appellant was sentenced to be confined for 18 months (for the Specification of Charge I), to be confined for 9 months (for Specification 1 of Charge II), and to be confined 12 months (for Specification 2 of Charge II), and to be confined for 18 months (the Specification of Charge III), with all the sentences running concurrently. R. at 118.

³ Since the filing of Appellant's last EOT, counsel filed a supplement to petition for grant of review to the Court of Appeals for the Armed Forces (CAAF) in *United States v. Daniels III*, ACM 39407 (rem) on 16 November 2022, filed a supplement to petition for grant of review in *United States v. Carlile*, ACM 40053 on 23 November 2022, argued *United States v. Witt*, USCA Dkt. No. 22-0090/AF on 6 December 2022, filed a reply brief in *United States v. Kitchen*, ACM 40155 on 13 December 2022, and participated in a *DuBay* motions hearing held at MCAS Miramar in *United States v. Knodel*, ACM 40018 on 13 December 2022.

3. *United States v Robles*, ACM 40280 – The record of trial is 8 volumes; the trial transcript is 399 pages. There are 18 prosecution exhibits, 6 defense exhibits, and 15 appellate exhibits. Counsel has not yet begun her review of Appellant’s ROT.

Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant’s case and advise Appellant regarding potential errors.

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

Respectfully submitted,

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

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 14 December 2022.

Respectfully submitted,

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Staff Sergeant (E-5)	)	ACM 40285
ANTHONY S. ARBO, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

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

OLIVIA B. HOFF, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 15 December 2022.

OLIVIA B. HOFF, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force

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

UNITED STATES	)	No. ACM 40285
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Anthony S. ARBO)	
Staff Sergeant (E-5))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 14 December 2022, counsel for Appellant submitted a Motion for Enlargement of Time (Fifth) requesting an additional 30 days to submit Appellant’s assignments of error. The Government opposes the motion.

The court has considered Appellant’s motion, the Government’s opposition, case law, and this court’s Rules of Practice and Procedure. Accordingly, it is by the court on this 16th day of December, 2022,

ORDERED:

Appellant’s Motion for Enlargement of Time (Fifth) is **GRANTED**. Appellant shall file any assignments of error not later than **20 January 2023**.

Any subsequent motions for enlargement of time shall, in addition to the matters required under this court’s Rules of Practice and Procedure, include a statement as to: (1) whether Appellant was advised of his right to a timely appeal, (2) whether Appellant was advised of the request for an enlargement of time, and (3) whether Appellant agrees with the request for an enlargement of time.



FOR THE COURT

ANTHONY F. ROCK, Maj, USAF
Deputy Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
	)	TIME (SIXTH)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40285
ANTHONY S. ARBO,)	
United States Air Force	)	6 January 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(3) and (m)(6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **19 February 2023**. The record of trial was docketed with this Court on 25 May 2022. From the date of docketing to the present date, 226 days have elapsed. On the date requested, 270 days will have elapsed.

On 8 March 2022, pursuant to his pleas,¹ Appellant was convicted at a general court-martial convened at Joint Base Andrews NAF, Maryland, of one charge and one specification of wrongful distribution of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), one charge and two specifications of attempted wrongful receipt of child pornography in Article 80, UCMJ, and one charge and one specification of sexual abuse of a child in Article 120b, UCMJ. R. at 84. A military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances, to be confined



GRANTED

10 JAN 2023

¹ Pursuant to his plea agreement, one charge and two specifications of willful dereliction of duty, in violation of Article 92, UCMJ, were withdrawn and dismissed without prejudice. ROT, Vol. 1, Entry of Judgment (EOJ), dated 18 April 2022.

for a total of 18 months,² and to be discharged with a bad conduct discharge. R. at 118; ROT, Vol. 1, EOJ. The convening authority took no action on the findings or sentence. ROT, Vol. 1, Decision on Action, dated 4 April 2022.

The record of trial consists of 6 prosecution exhibits, 2 defense exhibits, and 6 appellate exhibits; the transcript is 118 pages. Appellant is currently confined, is aware of his appellate rights, and has consented to necessary requests for extensions of time, including this request.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters³ and has yet to complete her review of Appellant's case. Counsel is currently assigned 23 cases; 12 cases are pending initial AOE's before this Court. This is military counsel's fourth priority case, and third priority case before this Court. The following cases have priority over the present case:

1. *United States v. Knodel*, ACM 40018 – Counsel and Appellant's civilian appellate defense attorney will be representing Appellant at his *DuBay* hearing, which is scheduled for 10-12 January 2023, with the potential for the hearing to continue through 13 January 2023. The hearing will be held at the naval base located near MCAS Miramar, San Diego. Undersigned counsel will be traveling on Saturday, 7 January 2023 and is scheduled to return on Saturday, 14 January 2023 (in the event that Appellant's *DuBay* hearing concludes on 13 January 2023).

Approximately twenty witnesses are currently anticipated to testify at the *DuBay* hearing.

² Appellant was sentenced to be confined for 18 months (for the Specification of Charge I), to be confined for 9 months (for Specification 1 of Charge II), and to be confined 12 months (for Specification 2 of Charge II), and to be confined for 18 months (the Specification of Charge III), with all the sentences running concurrently. R. at 118.

³ Since the filing of Appellant's last EOT, counsel filed a supplement to petition for grant of review in *United States v. Ramirez*, ACM S32358 (f rev) on 5 January 2023. Counsel was also on leave 22-26 December 2022 and 28 December 2022 through 2 January 2023 for the Christmas and New Year's holidays.

2. *United States v. Jones*, ACM 40226 – The record of trial is 10 volumes; the trial transcript is 1070 pages. There are 13 prosecution exhibits, 11 defense exhibits, and 68 appellate exhibits. Counsel has completed her review of Appellant’s transcript, has begun reviewing the sealed materials in Appellant’s case, and has been consulting with Appellant regarding potential issues to raise in his brief in order to begin drafting his brief.

3. *United States v Robles*, ACM 40280 – The record of trial is 8 volumes; the trial transcript is 399 pages. There are 18 prosecution exhibits, 6 defense exhibits, and 15 appellate exhibits. Counsel has not yet begun her review of Appellant’s ROT.

Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant’s case and advise Appellant regarding potential errors.

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

Respectfully submitted,

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

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 6 January 2023.

Respectfully submitted,

Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Staff Sergeant (E-5)	)	ACM 40285
ANTHONY S. ARBO, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

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

OLIVIA B. HOFF, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 9 January 2023.

OLIVIA B. HOFF, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
	)	TIME (SEVENTH)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40285
ANTHONY S. ARBO,)	
United States Air Force	)	10 February 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(3) and (m)(6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **21 March 2023**. The record of trial was docketed with this Court on 25 May 2022. From the date of docketing to the present date, 261 days have elapsed. On the date requested, 300 days will have elapsed.

On 8 March 2022, pursuant to his pleas,¹ Appellant was convicted at a general court-martial convened at Joint Base Andrews NAF, Maryland, of one charge and one specification of wrongful distribution of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), one charge and two specifications of attempted wrongful receipt of child pornography in violation of Article 80, UCMJ, and one charge and one specification of sexual abuse of a child in violation of Article 120b, UCMJ. R. at 84. A military judge sentenced Appellant to be imprisoned, to be reduced to the grade of E-1, to forfeit all pay and allowances, to be confined



GRANTED
14 FEB 2023

¹ Pursuant to his plea agreement, one charge and two specifications of willful dereliction of duty, in violation of Article 92, UCMJ, were withdrawn and dismissed without prejudice. ROT, Vol. 1, Entry of Judgment (EOJ), dated 18 April 2022.

for a total of 18 months,² and to be discharged with a bad conduct discharge. R. at 118; ROT, Vol. 1, EOJ. The convening authority took no action on the findings or sentence. ROT, Vol. 1, Decision on Action, dated 4 April 2022.

The record of trial consists of 6 prosecution exhibits, 2 defense exhibits, and 6 appellate exhibits; the transcript is 118 pages. Appellant is currently confined, is aware of his appellate rights, and has consented to necessary requests for extensions of time, including this request.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters³ and while she has begun reviewing Appellant's case, she has yet to complete her review of Appellant's case. Counsel is currently assigned 23 cases; 13 cases are pending initial AOE's before this Court. This is military counsel's third priority case. The following cases have priority over the present case:

1. *United States v. Jones*, ACM 40226 – The record of trial is 10 volumes; the trial transcript is 1070 pages. There are 13 prosecution exhibits, 11 defense exhibits, and 68 appellate exhibits. Counsel is currently consulting with Appellant on issues to raise, researching issues, and drafting Appellant's brief which is due to this Court on 21 February 2023.

2. *United States v. Robles*, ACM 40280 – The record of trial is 8 volumes; the trial transcript is 399 pages. There are 18 prosecution exhibits, 6 defense exhibits, and 15 appellate exhibits. Counsel has begun her review of Appellant's ROT.

² Appellant was sentenced to be confined for 18 months (for the Specification of Charge I), to be confined for 9 months (for Specification 1 of Charge II), and to be confined 12 months (for Specification 2 of Charge II), and to be confined for 18 months (the Specification of Charge III), with all the sentences running concurrently. R. at 118.

³ Since the filing of Appellant's last EOT, counsel represented another client at his *DuBay* hearing (*United States v. Knodel*, ACM 40018), which was conducted from 10-14 January 2023 at Naval Base San Diego.

Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,

Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 10 February 2023.

Respectfully submitted,

Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
)	
Staff Sergeant (E-5)	)	ACM 40285
ANTHONY S. ARBO, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

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

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

OLIVIA B. HOFF, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 13 February 2023.

OLIVIA B. HOFF, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES <i>Appellee,</i>	)	APPELLANT’S MOTION TO
	)	EXAMINE SEALED MATERIAL
)	
v.)	
	)	Before Panel No. 1
Staff Sergeant (E-5))	
ANTHONY S. ARBO,	)	Case No. ACM 40285
United States Air Force)	
<i>Appellant</i>	)	Filed on: 24 February 2023
)	

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

Pursuant to Rules 3.1 and 23.3(f) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves to examine the sealed material in Appellant’s record of trial (Prosecution Exhibit (Pros. Ex.) 3. This exhibit, which contains contraband, was examined by trial counsel and defense counsel, and ordered sealed by the military judge.

In accordance with R.C.M. 1113(b)(3)(B)(i), which requires a colorable showing that examination of these materials is reasonably necessary to appellate counsel’s responsibilities, undersigned counsel asserts that review of the referenced exhibits is necessary to conduct a complete review of the record of trial and be in a position to advocate competently on behalf of Appellant. A review of the entire record is necessary because this Court is empowered by Article 66(c), Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 866(c), to grant relief based on a review and analysis of “the entire record.” To determine whether the record of trial yields grounds for this Court to grant relief under Article 66(c), UCMJ, 10 U.S.C. §866, counsel must therefore examine “the entire record.”

Although Courts of Criminal Appeals have a broad mandate to review the record unconstrained by an appellant's assignments of error, that broad mandate does not reduce

the importance of adequate representation. As we said in *United States v. Ortiz*, 24 M.J. 323, 325 (C.M.A. 1987), independent review is not the same as competent appellate representation.

United States v. May, 47 M.J. 478, 481, (C.A.A.F. 1998). The sealed material must be reviewed in order for counsel to provide “competent appellate representation.” *Id.* Therefore, military defense counsel’s examination of sealed materials is reasonably necessary to fulfill their responsibilities in this case, since counsel cannot perform their duty of representation under Article 70, UCMJ, 10 U.S.C. §870, without first reviewing the complete record of trial.

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

Respectfully submitted,

Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Appellate Government Division on 24 February 2023.

Respectfully submitted,

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' RESPONSE
<i>Appellee,</i>	)	TO APPELLANT'S MOTION
	)	TO EXAMINE
v.	)	SEALED MATERIAL
)	
Staff Sergeant (E-5)	)	ACM 40285
ANTHONY S. ARBO, USAF)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States responds to Appellant's Motion to Examine Sealed Material. The United States does not object to Appellant's counsel reviewing Prosecution Exhibit 3 so long as the United States can also review it as necessary to respond to any assignment of error that refers to the sealed materials. The United States respectfully requests that any order issued by this Court also allow counsel for the United States to view the sealed materials.

WHEREFORE, the United States respectfully responds to Appellant's motion.

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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 24 February 2023.

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

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

UNITED STATES	)	No. ACM 40285
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Anthony S. ARBO)	
Staff Sergeant (E-5))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 24 February 2023, Appellant’s counsel submitted a Motion to Examine Sealed Material, specifically: Prosecution Exhibit 3.

The motion states, “This exhibit, which contains contraband, was examined by trial counsel and defense counsel, and ordered sealed by the military judge” and that examination of these sealed materials is reasonably necessary to fulfill appellate counsel’s responsibilities. The Government does not oppose the motion, as long as the materials were viewed by both counsel at trial and Government counsel can also examine the sealed materials.

Appellate counsel may examine sealed materials released to counsel at trial “upon a colorable showing . . . that examination is reasonably necessary to a proper fulfillment of the appellate counsel’s responsibilities.” Rule for Courts-Martial 1113(b)(3)(B)(i), *Manual for Courts-Martial, United States* (2019 ed.).

The court has considered Appellant’s motion, the Government’s response, case law, and this court’s Rules of Practice and Procedure. The court has reviewed the requested material. The court also finds that appellate defense counsel has made a colorable showing that review of the material is reasonably necessary to a proper fulfillment of appellate defense counsel’s responsibilities.

Accordingly, it is by the court on this 24th day of February, 2023,

ORDERED:

Appellant’s Motion to Examine Sealed Material is **GRANTED**. Appellate defense counsel and appellate government counsel are authorized to examine **Prosecution Exhibit 3**, subject to the following conditions:

To examine these materials, counsel will coordinate with the court.

No counsel will photocopy, photograph, or otherwise reproduce this material and will not disclose or make available its contents to any other individual without this court's prior written authorization.



FOR THE COURT

FLEMING E. KEEFE, Capt, USAF
Acting Deputy Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
<i>Appellee</i>	)	TIME (EIGHTH)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40285
ANTHONY S. ARBO,)	
United States Air Force	)	14 March 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(3) and (m)(6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **20 April 2023**. The record of trial was docketed with this Court on 25 May 2022. From the date of docketing to the present date, 293 days have elapsed. On the date requested, 330 days will have elapsed.

On 8 March 2022, pursuant to his pleas,¹ Appellant was convicted at a general court-martial convened at Joint Base Andrews NAF, Maryland, of one charge and one specification of wrongful distribution of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), one charge and two specifications of attempted wrongful receipt of child pornography in violation of Article 80, UCMJ, and one charge and one specification of sexual abuse of a child in violation of Article 120b, UCMJ. R. at 84. A military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances, to be confined

¹ Pursuant to his plea agreement, one charge and two specifications of willful dereliction of duty, in violation of Article 92, UCMJ, were withdrawn and dismissed without prejudice. ROT, Vol. 1, Entry of Judgment (EOJ), dated 18 April 2022.

for a total of 18 months,² and to be discharged with a bad conduct discharge. R. at 118; ROT, Vol. 1, EOJ. The convening authority took no action on the findings or sentence. ROT, Vol. 1, Decision on Action, dated 4 April 2022.

The record of trial consists of 6 prosecution exhibits, 2 defense exhibits, and 6 appellate exhibits; the transcript is 118 pages. Appellant is currently confined, is aware of his appellate rights, and has consented to necessary requests for extensions of time, including this request.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters³ and is diligently working on Appellant's case. Counsel just completed her review of Appellant's ROT. Counsel is currently assigned 23 cases; 12 cases are pending initial AOE's before this Court. This is military counsel's second priority case. The following case has priority over the present case:

1. *United States v Robles*, ACM 40280 – The record of trial is 8 volumes; the trial transcript is 399 pages. There are 18 prosecution exhibits, 6 defense exhibits, and 15 appellate exhibits. Counsel has reviewed approximately 200 pages of Appellant's transcript, has reviewed the unsealed exhibits in his ROT, and has submitted a motion to view sealed materials.

Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors.

² Appellant was sentenced to be confined for 18 months (for the Specification of Charge I), to be confined for 9 months (for Specification 1 of Charge II), and to be confined 12 months (for Specification 2 of Charge II), and to be confined for 18 months (the Specification of Charge III), with all the sentences running concurrently. R. at 118.

³ Since the filing of Appellant's last EOT, counsel filed a lengthy brief in *United States v. Jones*, ACM 40226, on 21 February 2023, and filed a petition for reconsideration to the Court of Appeals for the Armed Forces (CAAF) in *United States v. Daniels III*, ACM 39407 (rem) on 10 March 2023.

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

Respectfully submitted.

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

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 14 March 2023.

Respectfully submitted,

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
)	
Staff Sergeant (E-5)	)	ACM 40285
ANTHONY S. ARBO, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 330 days in length. Appellant's nearly year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 7 months combined for the United States and this Court to perform their separate statutory responsibilities.

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

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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 16 March 2023.

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

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

UNITED STATES	)	No. ACM 40285
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Anthony S. ARBO)	
Staff Sergeant (E-5))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 14 March 2023, counsel for Appellant submitted a Motion for Enlargement of Time (Eighth) requesting an additional 30 days to submit Appellant’s assignments of error. The Government opposed the motion.

The court has considered Appellant’s motion, the Government’s opposition, case law, and this court’s Rules of Practice and Procedure. Accordingly, it is by the court on this 17th day of March, 2023,

ORDERED:

Appellant’s Motion for Enlargement of Time (Eighth) is **GRANTED**. Appellant shall file any assignments of error not later than **20 April 2023**.

Appellant’s counsel is advised that given the nature of this case and the number of enlargements granted thus far, absent exceptional circumstances, no further enlargement of time will be granted.



FOR THE COURT

V U apt, USAF
Acting Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

v.

Staff Sergeant (E-5)
ANTHONY S. ARBO,
United States Air Force,

Appellant

MERITS BRIEF

Before Panel 1

No. ACM 40285

Filed on: 20 April 2023

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

Submission of Case Without Specific Assignments of Error

The undersigned appellate defense counsel attests she has, on behalf of Staff Sergeant (SSgt) Anthony S. Arbo, Appellant, carefully examined the record of trial¹ in this case. SSgt Arbo does not admit that the findings and sentence are correct in law and fact, but submits the case to this Honorable Court on its merits with no specific assignments of error.²

¹ Appellant notes there is a typo in the Entry of Judgment (EOJ) in the Specification of Charge III. It states “b intentionally . . .” rather than “by intentionally . . .” Appellant does not assert any prejudice from this typo. *See* ROT, Vol. 1, EOJ, dated 18 April 2022.

² SSgt Arbo has conformed this merits brief to the format in Appendix B of this Honorable Court’s Rule of Practice and Procedure. SSgt Arbo understands this Court will exercise its independent “awesome, plenary, and de novo power” to review the entire record of this proceeding for factual and legal sufficiency, and for sentence propriety, and to “substitute its judgment” for that of the court below, as is provided for and required by Article 66(c), UCMJ, 10 U.S.C. §866(c) (2012) [now Article 66(d), UCMJ, 10 U.S.C. §866(d) (2019)] . *United States v. Cole*, 31 M.J. 270, 272 (C.M.A. 1990); *United States v. Chin*, 75 M.J. 220 (C.A.A.F. 2016).

Respectfully submitted,

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

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via electronic mail to the Court and served on the Appellate Government Division on 20 April 2023.

Respectfully submitted,

Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604