

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee,

v.

Airman Basic (E-1)
CYLE L. DAVIS,
United States Air Force,

Appellant.

**MOTION FOR ENLARGEMENT OF
TIME NO. 3 – FILED OUT OF TIME**

Before Panel No. 1

Case No. ACM S32648

Filed on: 13 September 2020

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

Pursuant to Rule 23.3(m) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignment of Errors (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **19 October 2020**. The record of trial was received by this division on 22 April 2020. From the date the record of trial was received to the present date, 144 days have elapsed. On the date requested, 180 days will have elapsed. This motion was due on 12 September 2020, and as such is being filed out of time, pursuant to Rule 23.3.(m)(7).

Per Rule 23.3(m), Appellant provides the following information in support of this request:

On 31 January 2020, Appellant was tried before a special court-martial

of a military judge alone at Shaw Air Force Base, South Carolina. In

accordance with his pleas, Appellant was found guilty of one charge and three



GRANTED

16 SEPTEMBER 2020

specifications of wrongful use of controlled substances, in violation of Article 112a, UCMJ, 10 U.S.C. § 912a; and one charge and two specification of conduct prejudicial to good order and discipline in the armed forces, in violation of Article 134, UCMJ, 10 U.S.C. § 934. R. at Vol. 3, Entry of Judgment.

Appellant was sentenced to confinement for a total of 210 days and a bad conduct discharge. *Id.* The convening authority approved the sentence as adjudged. *Id.* Appellant is not in confinement.

There were no motions argued. The record of trial has 3 volumes and the trial transcript has 111 pages. There are 7 prosecution exhibits, 1 defense exhibit, and 14 appellate exhibits.

Counsel is an Individual Mobilization Augmentee (Category B) Reservist and is employed full time as an Assistant United States Attorney in the District of South Dakota. Counsel has reviewed the record and begun researching the identified issues, but further time is necessary in light of the identified issues so that Appellant may have the benefit of appellate counsel

Accordingly, counsel requests that this Honorable Court grant this motion.

Respectfully Submitted,



KIRK W. ALBERTSON, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
E-Mail: kirk.w.albertson.mil@mail.mil

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 13 September 2020.



KIRK W. ALBERTSON, Maj, USAF

Appellate Defense Counsel

Air Force Appellate Defense Division

1500 West Perimeter Road, Suite 1100

Joint Base Andrews NAF, MD 20762-6604

Office: (240) 612-4770

E-Mail: kirk.w.albertson.mil@mail.mil

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 – OUT OF TIME
)	
Airman Basic (E-1))	ACM S32648
CYLE L. DAVIS, 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, Out of Time, to file an Assignment of Error in this case.

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



MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Counsel Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800

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 2020.

A handwritten signature in black ink that reads "Mary Ellen Payne". The signature is written in a cursive style with a large initial "M" and a long, sweeping underline.

MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Counsel Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800