

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

<b>UNITED STATES</b>	)	<b>NOTICE OF DIRECT APPEAL</b>
<i>Appellee</i>	)	<b>PURSUANT TO ARTICLE 66(b)(1)(A),</b>
	)	<b>UCMJ</b>
	)	
v.	)	
	)	
Master Sergeant (E-7)	)	No. ACM SXXXXXX
<b>TYLER B. EHLY</b>	)	
United States Air Force	)	2 April 2024
<i>Appellant</i>	)	

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

On 13 September 2022, Appellant was tried by special court-martial sitting as a military judge alone at Elsworth Air Force Base, South Dakota. Record of Trial (ROT), Vol. 1, Entry of Judgement, dated 7 November 2022, at 1. Appellant was convicted, consistent with his pleas, of one charge and specification of disorderly conduct, in violation of Article 134, Uniform Code of Military Justice (UCMJ). *Id.* at 2-3. One charge and three specifications of domestic violence, in violation of Article 128b, UCMJ, were withdrawn and dismissed with prejudice pursuant to a plea agreement. *Id.* at 1-3. The military judge sentenced Appellant to 30 days confinement, reduction in pay grade to Technical Sergeant (E-6), and a reprimand. *Id.* at 2. The convening authority took no action on the findings or sentence. ROT, Vol. 1, Convening Authority Decision on Action – *United States v. MSgt Tyler B. Ehyly*.

On 3 January 2024, the Government provided Appellant the required notice, by mail, of his right to appeal within 90 days. Pursuant to Article 66(b)(1)(A), UCMJ, Appellant files his notice of direct appeal with this Court.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

**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 2 April 2024.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

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

UNITED STATES <i>Appellee</i>	)	No. ACM _____
	)	
	)	
v.	)	
	)	
Tyler B. EHLY Master Sergeant (E-7) U.S. Air Force <i>Appellant</i>	)	<b>NOTICE OF DOCKETING</b>
	)	

On 2 April 2024, this court received a notice of direct appeal from Appellant in the above-styled case, pursuant to Article 66(b)(1)(A), Uniform Code of Military Justice, 10 U.S.C. § 866(b)(1)(A).

As of the date of this notice, the court has not yet received a record of trial in Appellant's case.

Accordingly, it is by the court on this 2d day of April, 2024,


**ORDERED:**

The case in the above-styled matter is referred to Panel 3.

**It is further ordered:**

The Government will forward a copy of the record of trial to the court forthwith.



FOR THE COURT  
  
TANICA S. BAGMON  
Appellate Court Paralegal

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

UNITED STATES	)	No. ACM 23004
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Tyler B. EHLY	)	
Master Sergeant (E-7)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 3</b>

On 12 September 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 16th day of September, 2024,

**ORDERED:**

Appellant’s Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error not later than **21 November 2024**.

Beginning with the fifth request for enlargement of time, all subsequent requests 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 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.

Appellant’s counsel are further advised that any future requests for enlargements of time that, if granted, would expire more than 360 days after

docketing and receipt of the verbatim transcript for this case by this court,\* will not be granted absent *exceptional circumstances*.



FOR THE COURT



OLGA STANFORD, Capt, USAF  
Commissioner

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\* The court notes that although this case was docketed on 2 April 2024, the Government did not provide the verbatim transcript for this case to the court until 24 July 2024.

**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 3
	)	
Master Sergeant (E-7)	)	No. ACM 23004
<b>TYLER B. EHLI,</b>	)	
United States Air Force	)	12 September 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), (2), and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his first enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **21 November 2024**. This case was docketed with this Court on 2 April 2024.<sup>1</sup> The verbatim transcript was received by this Court on 24 July 2024. From the date of receipt of the verbatim transcript to the present date, 50 days have elapsed. On the date requested, 120 days will have elapsed.

On 14 August 2022 and 13 September 2022 at Ellsworth Air Force Base, South Dakota, Appellant was tried by a special court-martial consisting of a military judge sitting alone. R. at 1, 84, 93. Consistent with his pleas, R. at 95, Appellant was convicted of one charge and specification of disorderly conduct under Article 134, Uniform Code of Military Justice (UCMJ). R. at 155. Pursuant to a plea agreement, R. at 131, the Government withdrew and dismissed, with prejudice, one charge and three specifications of domestic violation, in violation of Article 128b, UCMJ. R. at 151. The military judge sentenced Appellant to confinement for 30 days, reduction

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<sup>1</sup> From the date of docketing to the present date, 163 days have elapsed. On the date requested, 233 days will have elapsed.

in pay grade to E-6, and a reprimand. R. at 182. The convening authority took no action with regard to the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is three volumes, consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages.

Undersigned counsel is assigned 21 cases, 12 cases are pending initial AOE's before this Court. One case before the Court of Appeals for the Armed Forces (CAAF) takes priority over this case: *United States v. Daughma*. Undersigned counsel is presently drafting a supplement for grant of review. In addition, the following cases before this Court take priority over the instant one:

- 1) *United States v. Pulley*, ACM 40438 – The record of trial is 11 volumes, consisting of 22 prosecution exhibits, five defense exhibits, and 66 appellate exhibits; the transcript is 730 pages. While filings are complete in this case, undersigned counsel has moved this Court for oral argument; should this Court grant oral argument, preparation for such would take priority over the instant case.
- 2) *United States v. Couty*, ACM 40484 – The record of trial is seven volumes, consisting of 20 prosecution exhibits, two defense exhibits, two court exhibits, and 29 appellate exhibits; the transcript is 868 pages. The Government's Answer is due today, 12 September 2024, with any reply being due on 19 September 2024.
- 3) *United States v. Kelnhofer*, ACM 23012 – The record of trial is two volumes, consisting of 18 prosecution exhibits, three defense exhibits, and 11 appellate exhibits; the transcript is 494 pages. Undersigned counsel has reviewed the record and begun drafting an assignment of errors brief.

- 4) *United States v. Moreno*, ACM 40511 – The record of trial is six volumes, consisting of 59 appellate exhibits, 12 prosecution exhibits, and seven defense exhibits; the transcript is 531 pages. Civilian co-counsel has begun reviewing the record.
- 5) *United States v. Gibbs*, ACM 40523 – The record of trial is seven volumes, consisting of 40 appellate exhibits, 26 prosecution exhibits, 11 defense exhibits, and one court exhibit; the transcript is 1,084 pages. Undersigned counsel has identified at least one issue in this record. This appellant is currently confined.
- 6) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. This appellant is currently confined.
- 7) *United States v. Barlow*, ACM 40552 – The record of trial is four volumes, consisting of six prosecution exhibits, nine defense exhibits, 16 appellate exhibits, and two court exhibits; the transcript is 338 pages. This appellant is not currently confined.
- 8) *United States v. Beyer*, ACM 40566 – The record of trial is seven volumes, consisting of four prosecution exhibits, four defense exhibits, 66 appellate exhibits, and one court exhibit; the transcript is 939 pages. Civilian co-counsel has reviewed the record and begun drafting an assignment of errors brief. Undersigned counsel has begun a review of the record.
- 9) *United States v. Tyson*, ACM 40612 – The record of trial is an electronic record consisting of 924 pages. There are four prosecution exhibits, four defense exhibits, and 11 appellate exhibits. The transcript is 92 pages.

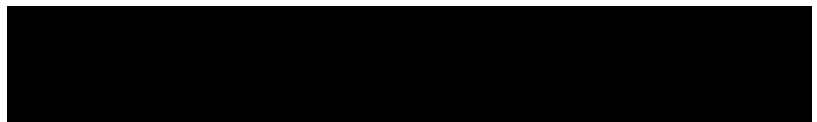
10) *United States v. Hupp*, ACM 24026 – The record of trial is two volumes, consisting of four prosecution exhibits, eight defense exhibits, four appellate exhibits, and one court exhibit.

The transcript is 153 pages.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant’s case. An enlargement of time is necessary to allow counsel time to fully review Appellant’s case and advise Appellant regarding potential errors. Appellant was advised of his right to a timely appeal. Appellant was advised of the request for this enlargement of time. Appellant has provided a limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement. Additionally, undersigned counsel provided Appellant with an update on the status of undersigned counsel’s progress on his case.<sup>2</sup>

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

Respectfully submitted,



TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

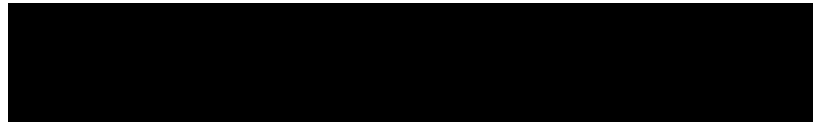
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<sup>2</sup> Appellant provided a limited consent to disclose this attorney-client privileged communication.

**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 12 September 2024.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

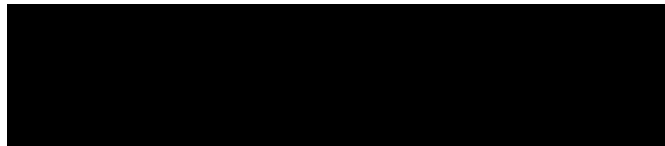
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Master Sergeant (E-7)	)	ACM 23004
TYLER B. EHLI, 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.



JENNY A. LIABENOW, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations 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 13 September 2024.



JENNY A. LIABENOW, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4800

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
	)	<b>ENLARGEMENT OF TIME (SECOND)</b>
	)	
v.	)	Before Panel 3
	)	
Master Sergeant (E-7)	)	No. ACM 23004
<b>TYLER B. EHLI,</b>	)	
United States Air Force	)	5 November 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)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his second enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **21 December 2024**. This case was docketed with this Court on 2 April 2024.<sup>1</sup> The verbatim transcript was received by this Court on 24 July 2024. From the date of receipt of the verbatim transcript to the present date, 104 days have elapsed. On the date requested, 150 days will have elapsed.

On 14 August 2022 and 13 September 2022 at Ellsworth Air Force Base, South Dakota, Appellant was tried by a special court-martial consisting of a military judge sitting alone. R. at 1, 84, 93. Consistent with his pleas, R. at 95, Appellant was convicted of one charge and specification of disorderly conduct under Article 134, Uniform Code of Military Justice (UCMJ). R. at 155. Pursuant to a plea agreement, R. at 131, the Government withdrew and dismissed, with prejudice, one charge and three specifications of domestic violation, in violation of Article 128b, UCMJ. R. at 151. The military judge sentenced Appellant to confinement for 30 days, reduction

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<sup>1</sup> From the date of docketing to the present date, 217 days have elapsed. On the date requested, 263 days will have elapsed.

in pay grade to E-6, and a reprimand. R. at 182. The convening authority took no action with regard to the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is three volumes, consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages.

Undersigned counsel is assigned 26 cases, 17 cases are pending initial AOE's before this Court. Two cases before the Court of Appeals for the Armed Forces (CAAF) take priority over this case: *United States v. Valentin-Andino* and *United States v. Pulley*. Undersigned counsel filed an initial brief in *Valentin-Andino* on 30 October 2024. The Government's answer is due on 2 December 2024, with any reply due on 9 September 2024. Undersigned counsel has also begun research in *Pulley*, in preparation of drafting a petition and corresponding supplement to the CAAF. In addition, the following cases before this Court take priority over the instant one:

- 1) *United States v. Moreno*, ACM 40511 – The record of trial is six volumes, consisting of 59 appellate exhibits, 12 prosecution exhibits, and seven defense exhibits; the transcript is 531 pages. Undersigned counsel has completed a review of the record and identified at least five potential errors. However, civilian co-counsel has suffered an injury rendering him unable to read. This has delayed preparation of a brief in this case.
- 2) *United States v. Gibbs*, ACM 40523 – The record of trial is seven volumes, consisting of 40 appellate exhibits, 26 prosecution exhibits, 11 defense exhibits, and one court exhibit; the transcript is 1,084 pages. Undersigned counsel has identified at least one issue in this record. This appellant is currently confined. Undersigned counsel has completed a review of the unsealed exhibits in this case.

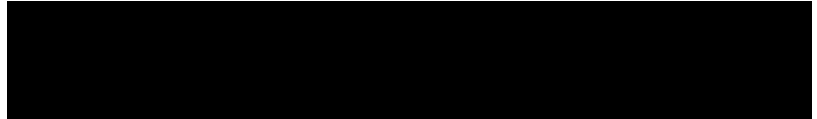
- 3) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. This appellant is currently confined.
- 4) *United States v. Barlow*, ACM 40552 – The record of trial is four volumes, consisting of six prosecution exhibits, nine defense exhibits, 16 appellate exhibits, and two court exhibits; the transcript is 338 pages. This appellant is not currently confined.
- 5) *United States v. Beyer*, ACM 40566 – The record of trial is seven volumes, consisting of four prosecution exhibits, four defense exhibits, 66 appellate exhibits, and one court exhibit; the transcript is 939 pages. Undersigned counsel filed an initial assignments of error brief with this Court. The Government has moved this court for an enlargement of time for an indefinite period. This Court has not yet acted on that motion.
- 6) *United States v. Tyson*, ACM 40612 – The record of trial is an electronic record consisting of 924 pages. There are four prosecution exhibits, four defense exhibits, and 11 appellate exhibits. The transcript is 92 pages.
- 7) *United States v. Hupp*, ACM 24026 – The record of trial is two volumes, consisting of four prosecution exhibits, eight defense exhibits, four appellate exhibits, and one court exhibit. The transcript is 153 pages.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of his right to a timely appeal. Appellant was advised of the request for this enlargement of time. Appellant has provided a limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement. Additionally,

undersigned counsel provided Appellant with an update on the status of undersigned counsel's progress on his case.<sup>2</sup>

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

Respectfully submitted,



TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

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<sup>2</sup> Appellant provided a limited consent to disclose this attorney-client privileged communication.

**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 5 November 2024.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

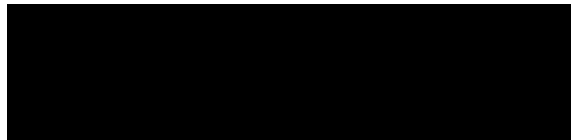
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Master Sergeant (E-7)	)	ACM 23004
TYLER B. EHLY, 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.



MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
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 6 November 2024.



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

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

UNITED STATES	)	No. ACM 23004
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Tyler B. EHLY	)	
Master Sergeant (E-7)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 3</b>

On 11 December 2024, counsel for Appellant submitted a Motion for Enlargement of Time (Third). The motion requests “an enlargement for a period of 30 days, which will end on **20 January 2024** [sic].” The motion concludes by requesting this court “grant the requested first [sic] enlargement of time.” The Government opposes the motion.

Accordingly, it is by the court on this 16th day of December, 2024,

**ORDERED:**

Appellant’s Motion for Enlargement of Time (Third) is hereby **GRANTED**. Appellant shall file any assignments of error not later than **20 January 2025**.



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 (THIRD)</b>
	)	
v.	)	Before Panel 3
	)	
Master Sergeant (E-7)	)	No. ACM 23004
<b>TYLER B. EHLI,</b>	)	
United States Air Force	)	11 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)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his third enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **20 January 2024**. This case was docketed with this Court on 2 April 2024.<sup>1</sup> The verbatim transcript was received by this Court on 24 July 2024. From the date of receipt of the verbatim transcript to the present date, 140 days have elapsed. On the date requested, 180 days will have elapsed.

On 14 August 2022 and 13 September 2022 at Ellsworth Air Force Base, South Dakota, Appellant was tried by a special court-martial consisting of a military judge sitting alone. R. at 1, 84, 93. Consistent with his pleas, R. at 95, Appellant was convicted of one charge and specification of disorderly conduct under Article 134, Uniform Code of Military Justice (UCMJ). R. at 155. Pursuant to a plea agreement, R. at 131, the Government withdrew and dismissed, with prejudice, one charge and three specifications of domestic violation, in violation of Article 128b, UCMJ. R. at 151. The military judge sentenced Appellant to confinement for 30 days, reduction in pay grade to E-6, and a reprimand. R. at 182. The convening authority took no action with

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<sup>1</sup> From the date of docketing to the present date, 253 days have elapsed. On the date requested, 293 days will have elapsed.

regard to the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is three volumes, consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages.

Undersigned counsel is assigned 26 cases, 16 cases are pending initial AOE's before this Court. One case before the United States Supreme Court takes priority over this case: *United States v. Nestor*. The petition for writ of certiorari is due on 21 February 2024. In addition, four cases before the Court of Appeals for the Armed Forces take priority over this case:

Four cases before the Court of Appeals for the Armed Forces (CAAF) have priority over this case:

- 1) *United States v. Valentin-Andino*. Undersigned counsel filed an opening brief in this case on 30 October 2024. The Government filed their answer on 5 December 2024. Undersigned counsel has completed a review of that answer, conducted research, and drafted the reply brief, to be filed tomorrow, 12 December 2024. Three moot arguments are scheduled for this case on 30 December 2024, 6 January 2025, and 10 January 2025, all of which will require substantial preparation.
- 2) *United States v. Pulley*. This appellant intends to file a petition for grant of review and corresponding supplement to the CAAF. The petition and corresponding supplement are due on 18 December 2024. Undersigned counsel has begun research on two of four potential issues and has begun drafting the supplement.
- 3) *United States v. Washington*. This appellant intends to file a petition for grant of review and corresponding supplement to the CAAF. Civilian co-counsel filed the petition and moved for an additional 21 days to file the corresponding supplement. That motion was

granted and the supplement is due on 26 December 2024. As newly assigned counsel, the undersigned has completed a review of the entire record (approximately 2,000 pages) and all corresponding decisions in this case. In addition, undersigned and civilian co-counsel have completed a draft supplement.

- 4) *United States v. Kelnhofer*. This appellant intends to file a petition and corresponding supplement to the CAAF. The petition and supplement are due on 9 January 2025. Undersigned counsel has not begun research or drafting.

In addition, the following cases before this Court take priority over the instant one:

- 1) *United States v. Moreno*, ACM 40511 – The record of trial is six volumes, consisting of 59 appellate exhibits, 12 prosecution exhibits, and seven defense exhibits; the transcript is 531 pages. Undersigned counsel has completed a review of the record, identified several potential errors, and drafted an assignment of error brief. That brief is with civilian co-counsel for review.
- 2) *United States v. Gibbs*, ACM 40523 – The record of trial is seven volumes, consisting of 40 appellate exhibits, 26 prosecution exhibits, 11 defense exhibits, and one court exhibit; the transcript is 1,084 pages. Undersigned counsel filed an initial assignments of error brief to this Court on 9 December 2024. The Government’s Answer is due on 8 January 2025, with any reply due on 15 January 2025.
- 3) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. Undersigned counsel has not begun review of this case.
- 4) *United States v. Barlow*, ACM 40552 – The record of trial is four volumes, consisting of six prosecution exhibits, nine defense exhibits, 16 appellate exhibits, and two court

exhibits; the transcript is 338 pages. Undersigned counsel has not begun a review of this case.

- 5) *United States v. Beyer*, ACM 40566 – The record of trial is seven volumes, consisting of four prosecution exhibits, four defense exhibits, 66 appellate exhibits, and one court exhibit; the transcript is 939 pages. Undersigned counsel filed an initial assignments of error brief with this Court. The Government’s answer is due tomorrow, 12 December 2024, with any reply due on 19 December 2024.
- 6) *United States v. Tyson*, ACM 40612 – The record of trial is an electronic record consisting of 924 pages. There are four prosecution exhibits, four defense exhibits, and 11 appellate exhibits. The transcript is 92 pages. Undersigned counsel has not begun a review of this record.
- 7) *United States v. Hupp*, ACM 24026 – The record of trial is two volumes, consisting of four prosecution exhibits, eight defense exhibits, four appellate exhibits, and one court exhibit. The transcript is 153 pages. Undersigned counsel has not begun a review of this record.

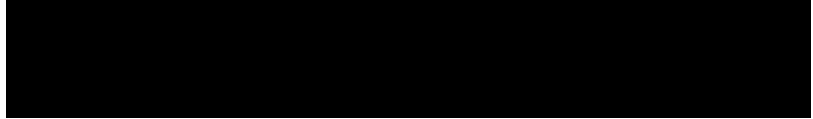
Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant’s case. An enlargement of time is necessary to allow counsel time to fully review Appellant’s case and advise Appellant regarding potential errors. Appellant was advised of his right to a timely appeal. Appellant was advised of the request for this enlargement of time. Appellant has provided a limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement. Additionally, undersigned counsel provided Appellant with an update on the status of undersigned counsel’s progress on his case.<sup>2</sup>

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<sup>2</sup> Appellant provided a limited consent to disclose this attorney-client privileged communication.

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

Respectfully submitted,

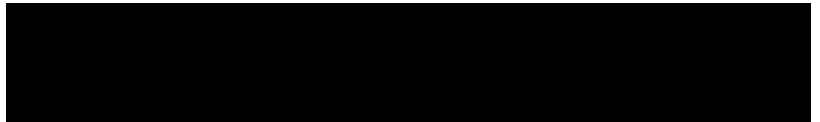


TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

**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 11 December 2024.

Respectfully submitted,



TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

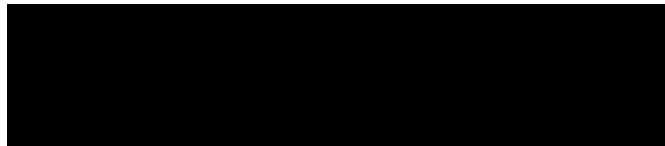
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Master Sergeant (E-7)	)	ACM 23004
TYLER B. EHLI, 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.



JENNY A. LIABENOW, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations 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 13 December 2024.



JENNY A. LIABENOW, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4800

**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 3
	)	
Master Sergeant (E-7)	)	No. ACM 23004
<b>TYLER B. EHLI,</b>	)	
United States Air Force	)	13 January 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)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his fourth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **19 February 2025**. This case was docketed with this Court on 2 April 2024.<sup>1</sup> The verbatim transcript was received by this Court on 24 July 2024. From the date of receipt of the verbatim transcript to the present date, 173 days have elapsed. On the date requested, 210 days will have elapsed.

On 14 August 2022 and 13 September 2022 at Ellsworth Air Force Base, South Dakota, Appellant was tried by a special court-martial consisting of a military judge sitting alone. R. at 1, 84, 93. Consistent with his pleas, R. at 95, Appellant was convicted of one charge and specification of disorderly conduct under Article 134, Uniform Code of Military Justice (UCMJ). R. at 155. Pursuant to a plea agreement, R. at 131, the Government withdrew and dismissed, with prejudice, one charge and three specifications of domestic violation, in violation of Article 128b, UCMJ. R. at 151. The military judge sentenced Appellant to confinement for 30 days, reduction in pay grade to E-6, and a reprimand. R. at 182. The convening authority took no action with

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<sup>1</sup> From the date of docketing to the present date, 286 days have elapsed. On the date requested, 323 days will have elapsed.

regard to the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is three volumes, consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages.

Undersigned counsel is assigned 29 cases, 18 cases are pending initial AOE's before this Court. One case before the United States Supreme Court takes priority over this case: *United States v. Nestor*. The petition for writ of certiorari is due on 21 February 2024. In addition, four cases before the Court of Appeals for the Armed Forces take priority over this case:

Three cases before the Court of Appeals for the Armed Forces (CAAF) have priority over this case:

- 1) *United States v. Valentin-Andino*. Briefing is complete in this case. Oral argument is scheduled for tomorrow, 14 January 2025. Undersigned counsel is currently preparing for oral argument.
- 2) *United States v. Pulley*. Undersigned counsel has completed a draft of the supplement brief in this case, which is currently under internal review. This brief will be filed no later than 16 January 2025.
- 3) *United States v. Kelnhofer*. Yesterday, 12 January 2025, undersigned counsel filed a petition and motion to file supplement separately. The CAAF has not yet set a deadline to file the supplement, but the undersigned intends to file it on or near 31 January 2025.

The undersigned has begun research in preparation of drafting this brief.

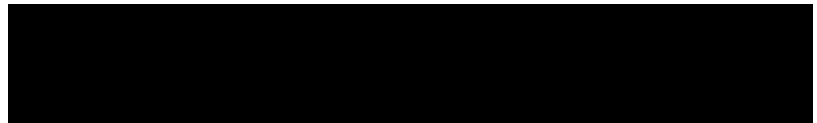
In addition, the following cases before this Court take priority over the instant one:

- 1) *United States v. Moreno*, ACM 40511 – The undersigned filed the initial assignments of error brief on 6 January 2025. The Government’s Answer is due on 6 February 2025, with any reply due on 13 February 2025.
- 2) *United States v. Gibbs*, ACM 40523 – The Government filed its Answer on 8 January 2025. On the same day, the undersigned filed an enlargement of time of seven days to file a reply. This Court has not yet acted on that enlargement. However, if granted, the reply brief will be due on 22 January 2025.
- 3) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. Undersigned counsel has reviewed approximately 200 pages of this record.
- 4) *United States v. Barlow*, ACM 40552 – The record of trial is four volumes, consisting of six prosecution exhibits, nine defense exhibits, 16 appellate exhibits, and two court exhibits; the transcript is 338 pages. Undersigned counsel has not begun a review of this case.
- 5) *United States v. Tyson*, ACM 40612 – The record of trial is an electronic record consisting of 924 pages. There are four prosecution exhibits, four defense exhibits, and 11 appellate exhibits. The transcript is 92 pages. Undersigned counsel has not begun a review of this record.
- 6) *United States v. Hupp*, ACM 24026 – The record of trial is two volumes, consisting of four prosecution exhibits, eight defense exhibits, four appellate exhibits, and one court exhibit. The transcript is 153 pages. Undersigned counsel has not begun a review of this record.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of his right to a timely appeal. Appellant was advised of the request for this enlargement of time. Appellant has provided a limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement. Additionally, undersigned counsel provided Appellant with an update on the status of undersigned counsel's progress on his case.<sup>2</sup>

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

Respectfully submitted,



TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

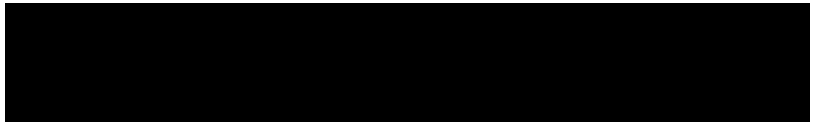
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<sup>2</sup> Appellant provided a limited consent to disclose this attorney-client privileged communication.

**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 13 January 2025.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

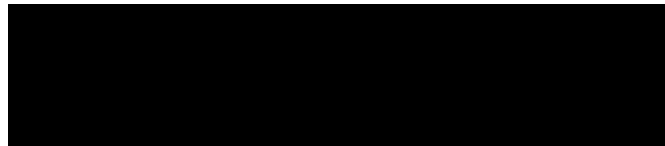
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Master Sergeant (E-7)	)	ACM 23004
TYLER B. EHLI, 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.



JENNY A. LIABENOW, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations 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 14 January 2025.



JENNY A. LIABENOW, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4800

**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 3
	)	
Master Sergeant (E-7)	)	No. ACM 23004
<b>TYLER B. EHLI,</b>	)	
United States Air Force	)	7 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)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his fifth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **21 March 2025**. This case was docketed with this Court on 2 April 2024.<sup>1</sup> The verbatim transcript was received by this Court on 24 July 2024. From the date of receipt of the verbatim transcript to the present date, 198 days have elapsed. On the date requested, 240 days will have elapsed.

On 14 August 2022 and 13 September 2022 at Ellsworth Air Force Base, South Dakota, Appellant was tried by a special court-martial consisting of a military judge sitting alone. R. at 1, 84, 93. Consistent with his pleas, R. at 95, Appellant was convicted of one charge and specification of disorderly conduct under Article 134, Uniform Code of Military Justice (UCMJ). R. at 155. Pursuant to a plea agreement, R. at 131, the Government withdrew and dismissed, with prejudice, one charge and three specifications of domestic violation, in violation of Article 128b, UCMJ. R. at 151. The military judge sentenced Appellant to confinement for 30 days, reduction in pay grade to E-6, and a reprimand. R. at 182. The convening authority took no action with

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<sup>1</sup> From the date of docketing to the present date, 311 days have elapsed. On the date requested, 353 days will have elapsed.

regard to the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is three volumes, consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages.

Undersigned counsel is assigned 29 cases, 16 cases are pending initial AOE's before this Court. One case before the United States Supreme Court takes priority over this case: *United States v. Nestor*. The petition for writ of certiorari will be completed today. No case before the Court of Appeals for the Armed Forces (CAAF) has priority over this case. Although, given the number of cases undersigned counsel currently has pending for decision by this Court, that is likely to change in the future.

In addition, the following cases before this Court take priority over the instant one:

- 1) *United States v. Moreno*, ACM 40511 – The reply is due on 12 February 2025.

Undersigned counsel is presently drafting the reply.

- 2) *United States v. Barlow*, ACM 40552 – The record of trial is four volumes, consisting of six prosecution exhibits, nine defense exhibits, 16 appellate exhibits, and two court exhibits; the transcript is 338 pages. Undersigned counsel has not begun a review of this case. But, this Court has indicated that it will not grant additional enlargements in this case so review will be imminent.

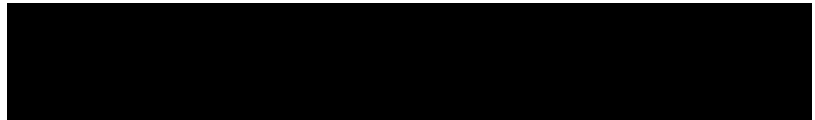
- 3) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. Undersigned counsel has reviewed approximately 850 pages of this record. However, this week, appellant hired civilian counsel. That counsel has not yet received the record or begun review.

4) *United States v. Tyson*, ACM 40612 – The record of trial is an electronic record consisting of 924 pages. There are four prosecution exhibits, four defense exhibits, and 11 appellate exhibits. The transcript is 92 pages. Undersigned counsel has not begun a review of this record.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant’s case. An enlargement of time is necessary to allow counsel time to fully review Appellant’s case and advise Appellant regarding potential errors. Appellant was advised of his right to a timely appeal. Appellant was advised of the request for this enlargement of time. Appellant has provided a limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement. Additionally, undersigned counsel provided Appellant with an update on the status of undersigned counsel’s progress on his case.<sup>2</sup>

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

Respectfully submitted,



TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

---

<sup>2</sup> Appellant provided a limited consent to disclose this attorney-client privileged communication.

**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 7 February 2025.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

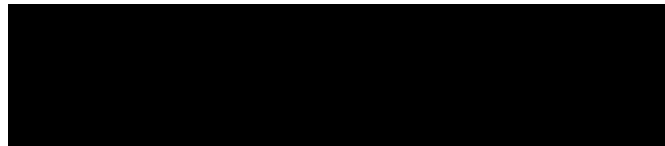
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Master Sergeant (E-7)	)	ACM 23004
TYLER B. EHLI, 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.



JENNY A. LIABENOW, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations 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 11 February 2025.



JENNY A. LIABENOW, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4800

**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 3
	)	
Master Sergeant (E-7)	)	No. ACM 23004
<b>TYLER B. EHLI,</b>	)	
United States Air Force	)	11 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)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his sixth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **20 April 2025**. This case was docketed with this Court on 2 April 2024.<sup>1</sup> The verbatim transcript was received by this Court on 24 July 2024. From the date of receipt of the verbatim transcript to the present date, 230 days have elapsed. On the date requested, 270 days will have elapsed.

On 14 August 2022 and 13 September 2022 at Ellsworth Air Force Base, South Dakota, Appellant was tried by a special court-martial consisting of a military judge sitting alone. R. at 1, 84, 93. Consistent with his pleas, R. at 95, Appellant was convicted of one charge and specification of disorderly conduct under Article 134, Uniform Code of Military Justice (UCMJ). R. at 155. Pursuant to a plea agreement, R. at 131, the Government withdrew and dismissed, with prejudice, one charge and three specifications of domestic violation, in violation of Article 128b, UCMJ. R. at 151. The military judge sentenced Appellant to confinement for 30 days, reduction in pay grade to E-6, and a reprimand. R. at 182. The convening authority took no action with

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<sup>1</sup> From the date of docketing to the present date, 343 days have elapsed. On the date requested, 383 days will have elapsed.

regard to the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is three volumes, consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages.

Undersigned counsel is assigned 30 cases, 19 cases are pending initial AOE's before this Court. Two cases before the Court of Appeals for the Armed Forces (CAAF) have priority over this case: (1) *United States v. Couty*; and (2) *United States v. Beyer*. Undersigned counsel has not yet begun work on these petitions. In addition, the following cases before this Court take priority over the instant one:

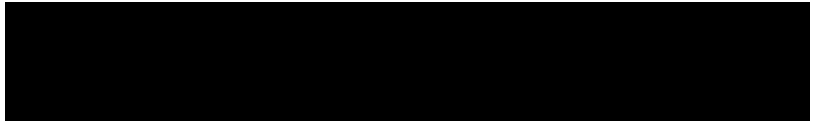
- 1) *United States v. Barlow*, ACM 40552 – The record of trial is four volumes, consisting of six prosecution exhibits, nine defense exhibits, 16 appellate exhibits, and two court exhibits; the transcript is 338 pages. Undersigned counsel has completed a review of the record and is drafting an assignments of error brief, to be filed no later than 14 March 2025.
- 2) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. Undersigned counsel has reviewed approximately 850 pages of the unsealed record and all sealed portions of the record. Civilian co-counsel has not completed a review of the record.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of his right to a timely appeal. Appellant was advised of the request for this enlargement of time. Appellant has provided a limited consent to disclose a confidential communication with

counsel wherein Appellant consented to the request for this enlargement. Additionally, undersigned counsel provided Appellant with an update on the status of undersigned counsel's progress on his case.<sup>2</sup>

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

Respectfully submitted,



TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

---

<sup>2</sup> Appellant provided a limited consent to disclose this attorney-client privileged communication.

**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 11 March 2025.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

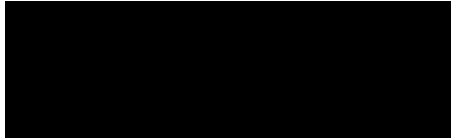
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.	)	
	)	Before Panel No. 3
Master Sergeant (E-7)	)	
<b>TYLER B. EHL</b>	)	No. ACM 23004
United States Air Force.	)	
<i>Appellant</i>	)	13 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 Assignment of Error in this case.

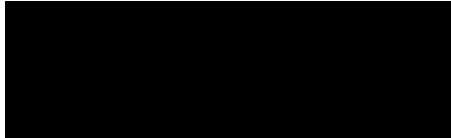
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations 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 13 March 2025.



VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4800

**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 3
	)	
Master Sergeant (E-7)	)	No. ACM 23004
<b>TYLER B. EHLI,</b>	)	
United States Air Force	)	11 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)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his seventh enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **20 May 2025**. This case was docketed with this Court on 2 April 2024.<sup>1</sup> The verbatim transcript was received by this Court on 24 July 2024. From the date of receipt of the verbatim transcript to the present date, 261 days have elapsed. On the date requested, 300 days will have elapsed.

On 14 August 2022 and 13 September 2022 at Ellsworth Air Force Base, South Dakota, Appellant was tried by a special court-martial consisting of a military judge sitting alone. R. at 1, 84, 93. Consistent with his pleas, R. at 95, Appellant was convicted of one charge and specification of disorderly conduct under Article 134, Uniform Code of Military Justice (UCMJ). R. at 155. Pursuant to a plea agreement, R. at 131, the Government withdrew and dismissed, with prejudice, one charge and three specifications of domestic violation, in violation of Article 128b, UCMJ. R. at 151. The military judge sentenced Appellant to confinement for 30 days, reduction in pay grade to E-6, and a reprimand. R. at 182. The convening authority took no action with

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<sup>1</sup> From the date of docketing to the present date, 374 days have elapsed. On the date requested, 413 days will have elapsed. A previous filing of the same name and date erroneously stated "373 days" had elapsed. This was an error. This filing corrects that error.

regard to the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is three volumes, consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages.

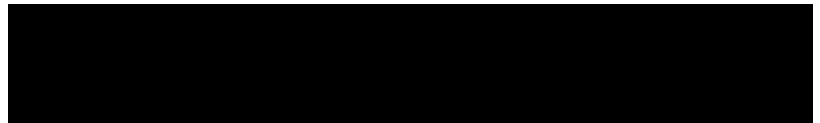
Undersigned counsel is assigned 30 cases, 18 cases are pending initial AOE's before this Court. One case before the United States Supreme Court takes priority over this case: *United States v. Kelnhofer*. The petition for writ of certiorari is due in late May 2025. The petition must be prepared no later than 14 May 2025 to complete printing and file on time. Undersigned counsel has not yet begun work on this petition. Four cases before the Court of Appeals for the Armed Forces (CAAF) have priority over this case: (1) *United States v. Washington*; (2) *United States v. Couty*; (3) *United States v. Beyer*; and (4) *United States v. Covitz*. For *Washington*, undersigned counsel is coordinating with civilian co-counsel and Government counsel to complete the joint appendix. For *Couty*, undersigned counsel has completed research and has nearly completed drafting of the supplement, likely to be filed next week. Work on the remaining petitions and supplements has not yet begun.

- 1) *United States v. Barlow*, ACM 40552 – The record of trial is four volumes, consisting of six prosecution exhibits, nine defense exhibits, 16 appellate exhibits, and two court exhibits; the transcript is 338 pages. The Government's answer is due on 15 May 2025, with any reply due on 22 May 2025.
- 2) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. Undersigned counsel has completed a review of the record. Civilian co-counsel has not yet completed his review of the record.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of his right to a timely appeal. Appellant was advised of the request for this enlargement of time. Appellant has provided a limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement. Additionally, undersigned counsel provided Appellant with an update on the status of undersigned counsel's progress on his case.<sup>2</sup>

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

Respectfully submitted,



TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

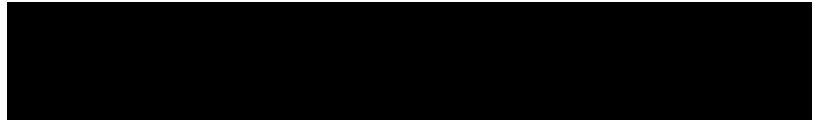
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<sup>2</sup> Appellant provided a limited consent to disclose this attorney-client privileged communication.

**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 11 April 2025.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

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

UNITED STATES,	)	UNITED STATES’
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME
v.	)	
	)	Before Panel No. 3
Master Sergeant (E-7)	)	
<b>TYLER B. EHL</b>	)	No. ACM 23004
United States Air Force.	)	
<i>Appellant</i>	)	15 April 2025

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 300 days in length. Appellant’s 10 month 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.

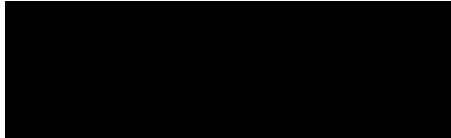
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations 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 April 2025.



VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4800

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

<b>UNITED STATES</b>	)	No. ACM 23004
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>NOTICE OF PANEL CHANGE</b>
<b>Tyler B. EHLI</b>	)	
<b>Master Sergeant (E-7)</b>	)	
<b>U.S. Air Force</b>	)	
<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 (EIGHTH)</b>
	)	
v.	)	Before Panel 1
	)	
Master Sergeant (E-7)	)	No. ACM 23004
<b>TYLER B. EHLI,</b>	)	
United States Air Force	)	11 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)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his eighth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **19 June 2025**. This case was docketed with this Court on 2 April 2024.<sup>1</sup> The verbatim transcript was received by this Court on 24 July 2024. From the date of receipt of the verbatim transcript to the present date, 291 days have elapsed. On the date requested, 330 days will have elapsed.

On 14 August 2022 and 13 September 2022 at Ellsworth Air Force Base, South Dakota, Appellant was tried by a special court-martial consisting of a military judge sitting alone. R. at 1, 84, 93. Consistent with his pleas, R. at 95, Appellant was convicted of one charge and specification of disorderly conduct under Article 134, Uniform Code of Military Justice (UCMJ). R. at 155. Pursuant to a plea agreement, R. at 131, the Government withdrew and dismissed, with prejudice, one charge and three specifications of domestic violation, in violation of Article 128b, UCMJ. R. at 151. The military judge sentenced Appellant to confinement for 30 days, reduction in pay grade to E-6, and a reprimand. R. at 182. The convening authority took no action with

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<sup>1</sup> From the date of docketing to the present date, 404 days have elapsed. On the date requested, 443 days will have elapsed.

regard to the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is three volumes, consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages.

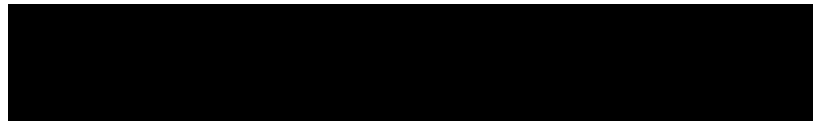
Undersigned counsel is assigned 31 cases, 19 cases are pending initial AOE's before this Court. One case before the United States Supreme Court takes priority over this case: *United States v. Kelnhofer*. The petition for writ of certiorari is due in late May 2025. The petition must be prepared no later than 14 May 2025 to complete printing and file on time. Undersigned counsel has completed an initial draft of this petition. Three cases before the Court of Appeals for the Armed Forces (CAAF) have priority over this case: (1) *United States v. Washington*; (2) *United States v. Beyer*; and (3) *United States v. Covitz*. For *Washington*, undersigned counsel filed the initial brief last week. The Government's answer is due on 30 May 2025, with any reply due 6 June 2025. For *Beyer*, undersigned counsel has completed is finishing an initial draft of the supplement brief, to be filed no later than 13 May 2025. Undersigned counsel has completed research but has not yet begun drafting in *Covitz*.

- 1) *United States v. Barlow*, ACM 40552 – The record of trial is four volumes, consisting of six prosecution exhibits, nine defense exhibits, 16 appellate exhibits, and two court exhibits; the transcript is 338 pages. The Government's answer is due on 15 May 2025, with any reply due on 22 May 2025.
- 2) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. Undersigned counsel has completed a review of the record. Civilian co-counsel has completed a review and is currently working on a draft brief.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of his right to a timely appeal. Appellant was advised of the request for this enlargement of time. Appellant has provided a limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement. Additionally, undersigned counsel provided Appellant with an update on the status of undersigned counsel's progress on his case.<sup>2</sup>

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

Respectfully submitted,



TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

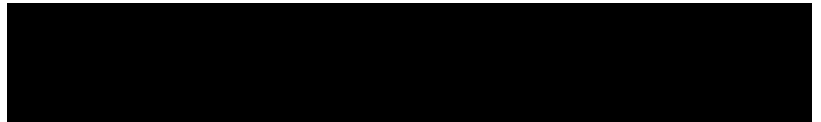
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<sup>2</sup> Appellant provided a limited consent to disclose this attorney-client privileged communication.

**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 11 May 2025.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

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

<b>UNITED STATES,</b>	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 1
Master Sergeant (E-7)	)	
<b>TYLER B. EHLI,</b>	)	No. ACM 23004
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	13 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 opposition to Appellant’s Motion for Enlargement of Time to file an Assignment of Error in this case.

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

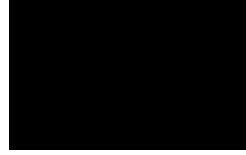
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



KATE E. LEE, Maj, USAF  
Appellate Government Counsel  
Government Trial & Appellate Operations  
1500 W. Perimeter Road, Suite 1190  
Joint Base Andrews, MD  
DSN: 612-4809

**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 May 2025.



KATE E. LEE, Maj, USAF  
Appellate Government Counsel  
Government Trial & Appellate Operations  
1500 W. Perimeter Road, Suite 1190  
Joint Base Andrews, MD  
DSN: 612-4809

**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 1
	)	
Master Sergeant (E-7)	)	No. ACM 23004
<b>TYLER B. EHLI,</b>	)	
United States Air Force	)	9 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)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his ninth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **19 July 2025**. This case was docketed with this Court on 2 April 2024.<sup>1</sup> The verbatim transcript was received by this Court on 24 July 2024. From the date of receipt of the verbatim transcript to the present date, 320 days have elapsed. On the date requested, 360 days will have elapsed.

On 14 August 2022 and 13 September 2022 at Ellsworth Air Force Base, South Dakota, Appellant was tried by a special court-martial consisting of a military judge sitting alone. R. at 1, 84, 93. Consistent with his pleas, R. at 95, Appellant was convicted of one charge and specification of disorderly conduct under Article 134, Uniform Code of Military Justice (UCMJ). R. at 155. Pursuant to a plea agreement, R. at 131, the Government withdrew and dismissed, with prejudice, one charge and three specifications of domestic violation, in violation of Article 128b, UCMJ. R. at 151. The military judge sentenced Appellant to confinement for 30 days, reduction in pay grade to E-6, and a reprimand. R. at 182. The convening authority took no action with

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<sup>1</sup> From the date of docketing to the present date, 433 days have elapsed. On the date requested, 473 days will have elapsed.

regard to the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is three volumes, consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages.

Undersigned counsel is assigned 33 cases, 20 cases are pending initial AOE's before this Court. One case before the Court of Appeals for the Armed Forces (CAAF) has priority over this case: *United States v. Washington*. The reply brief is due on 27 June 2025. Undersigned counsel has begun research on that brief.

- 1) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. The opening brief was filed in this case last week. The reply will be due on 14 July 2025.

Undersigned counsel has completed a review of Appellant's record and has begun research. Through no fault of Appellant, undersigned counsel has been unable to complete a brief in Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of his right to a timely appeal. Appellant was advised of the request for this enlargement of time. Appellant has provided a limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement. Additionally, undersigned counsel provided Appellant with an update on the status of undersigned counsel's progress on his case.<sup>2</sup>

---

<sup>2</sup> Appellant provided a limited consent to disclose this attorney-client privileged communication.

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

Respectfully submitted,



TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

**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 9 June 2025.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force  
(240) 612-2807

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

<b>UNITED STATES,</b>	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 1
Master Sergeant (E-7)	)	
<b>TYLER B. EHLI,</b>	)	No. ACM 23004
United States Air Force,	)	
<i>Appellant.</i>	)	10 June 2025
	)	

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 360 days in length – calculated from the date that the Court received the verbatim transcript to the requested date.<sup>1</sup> Appellant’s nearly year-long delay from receipt of the verbatim transcript 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.

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<sup>1</sup> From the date of docketing the direct appeal without the verbatim transcript to the present date, 434 days have elapsed. On the date requested, 473 days will have elapsed.

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



JG [REDACTED] USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations 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 10 June 2025.



JG [Redacted] USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4800

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

<b>UNITED STATES,</b>	)	<b>BRIEF ON BEHALF OF</b>
<i>Appellee,</i>	)	<b>APPELLANT</b>
	)	
v.	)	Before Panel 1
	)	
Master Sergeant (E-7)	)	No. ACM 23004
<b>TYLER B. EHLI,</b>	)	
United States Air Force,	)	8 July 2025
<i>Appellant.</i>	)	

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

**ASSIGNMENTS OF ERROR**

- I. MSGT EHLI PLED GUILTY AND WAS SENTENCED TO THE MAXIMUM PUNISHMENT UNDER THE PLEA AGREEMENT. IS THE ADJUDGED SENTENCE INAPPROPRIATELY SEVERE?**
  
- II. MSGT EHLI WAS SENTENCED ON 13 SEPTEMBER 2022. THIS COURT DID NOT RECEIVE A VERBATIM RECORD UNTIL 24 JULY 2024, 680 DAYS LATER. IS MSGT EHLI ENTITLED TO SENTENCING RELIEF UNDER ARTICLE 66(D)(2), UCMJ, FOR UNREASONABLE POST-TRIAL DELAY?**

**STATEMENT OF THE CASE**

On 14 August 2022 and 13 September 2022 at Ellsworth Air Force Base, South Dakota, Master Sergeant (MSgt) Tyler B. Ehly was tried by a special court-martial consisting of a military judge sitting alone. R. at 1, 84, 93. Consistent with his pleas, R. at 95, MSgt Ehly was convicted of one charge and specification of disorderly conduct under Article 134, Uniform Code of Military Justice (UCMJ). R. at 155. The military judge sentenced MSgt Ehly to confinement for 30 days, reduction in pay grade to E-6, and a reprimand. R. at 182. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action.

## STATEMENT OF FACTS

### *MSgt Ehly's Career before the Incident*

MSgt Ehly enlisted on 29 May 2002 and began his career as a dedicated crew chief on the C-130 airframe. R. at 165. In 2009, MSgt Ehly was reassigned to the Repair and Reclamation section on the B-1 airframe. R. at 165-66. During these assignments, he deployed multiple times. R. at 166.

In 2012, MSgt Ehly was called off leave to assist with the recovery operation of a firefighting C-130. R. at 166. MSgt Ehly was responsible for securing the black box recording devices and the bodies of four deceased Airmen. R. at 166. This mission had a tremendous impact on MSgt Ehly. At the time of his court-martial, he suffered from post-traumatic stress from this mission: "I'll never forget the look on the airman's face, strapped in the seat. The top half of his body had been ripped apart and then folded backwards." R. at 166. MSgt Ehly recalls being "met with [the] lifeless body just staring at [him]." R. at 166. After this mission, MSgt Ehly turned to alcohol to help him sleep and escape "terrible nightmares . . . [of] the airman's body bent in half staring at [him]." R. at 166.

Despite his dependence on alcohol to cope with this trauma, MSgt Ehly continued to excel as a noncommissioned and senior noncommissioned officer. Pros. Ex. 3 at 1-21 (showing performance reports with "clearly exceeds" and "above average" demarcations).

### *The Incident*

While his career continued to excel, MSgt Ehly struggled with alcohol dependence. Pros. Ex. 1 at 4; *see* R. at 167 (explaining that the incident happened after a night of alcohol consumption). One evening, MSgt Ehly was intoxicated and began to argue with his significant other. R. at 167. At some point, MSgt Ehly began to throw his her belongings into the yard as she

left the house. R. at 108-09. MSgt Ehly admitted that, during the argument, a flowerpot broke and his significant other fell. R. at 109. However, he did not recall what, if anything, caused this. R. at 109, 116.

After the verbal altercation, MSgt Ehly's significant other stayed with a friend. R. at 167. The next day, she returned and the two discussed the fight and apologized to one another. R. at 168. Following this incident, MSgt Ehly began attending ADAPT and completed treatment. R. at 170. At the time of his court-martial, MSgt Ehly no longer drank alcohol. *Cf.* R. at 170 (stating that he "looks forward to . . . being involved with my kids' lives in a way that I could never be when I was . . . drinking.").

#### *MSgt Ehly Pleads Guilty*

On 3 January 2024, MSgt Ehly pled guilty to disorderly conduct for having a loud, verbal altercation with his significant other, where he threw her belongings into the yard and a flowerpot was damaged. R. at 10; *see* Charge Sheet. The Government agreed MSgt Ehly saved the Air Force time, money, and resources through his guilty plea. Pros. Ex. 1 at 1. The Government also agreed that, by pleading guilty, MSgt Ehly took "responsibility for his actions and helped ensure the timely and efficient administration of justice." Pros. Ex. 1 at 2.

#### *Post-trial Delay*

MSgt Ehly was sentenced on 13 September 2022. R. at 182-83. The Entry of Judgement was signed on 7 November 2022. Entry of Judgement at 1. On 3 January 2024, the Government notified MSgt Ehly of his right under Article 66(b)(1)(A), UCMJ, to appeal his conviction to this Court. MSgt Ehly filed his notice of appeal on 2 April 2024. This Court docketed this case the same day MSgt Ehly submitted his notice. But it still took the Government 113 days—until 24 July 2024—to prepare and transmit the 183-page transcript.

## ARGUMENT

### **I. MSgt Ehly’s adjudged sentence is inappropriately severe.**

#### *A. Standard of Review*

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

#### *B. Law and Analysis*

MSgt Ehly’s sentence to thirty days of confinement and a reduction in grade to E-6 is inappropriately severe considering the nature of the offense and MSgt Ehly’s stellar Air Force career. As such, this Court should order relief by disapproving the reduction in grade.

Article 66(d)(1), UCMJ, “provides that [this Court] ‘may affirm only . . . the sentence, or such part or amount of the sentence, as the Court finds correct in law and fact and determines, on the basis of the entire record, should be approved.’” *United States v. Flores*, 84 M.J. 277, 280-81 (C.A.A.F. 2024). Fundamentally, this means that this Court must “determine whether it finds the sentence to be appropriate.” *Id.* at 281 (citation omitted).

This Court has “broad discretion to determine whether a sentence should be approved, a power that has no direct parallel in the federal civilian sector.” *United States v. Behunin*, 83 M.J. 158, 161 (C.A.A.F. 2023) (citation modified). And, while this Court need not grant relief merely as a matter of clemency, *United States v. Sauk*, 74 M.J. 594, 606 (A.F. Ct. Crim. App. 2015) (en banc), it is required to “do justice.” *United States v. Nerad*, 69 M.J. 138, 146 (C.A.A.F. 2010). In assessing sentence appropriateness, this Court considers “the particular appellant, the nature and seriousness of the offense, the appellant’s record of service, and all matters contained in the record of trial.” *Id.* (citation modified). This Court also takes into consideration “uniformity and

evenhandedness of sentencing decisions.” *United States v. Sothen*, 54 M.J. 294, 296 (C.A.A.F. 2001).

The nature and seriousness of the offense for which MSgt Ehly is convicted does not warrant both thirty days of confinement and a reduction in pay grade, the maximum punishments authorized under the plea. At its core, this case involves a verbal dispute between a romantic couple, which, while regrettable, would not have risen to the level of criminal conduct but for the fact that it briefly moved outside and was overheard. The Manual makes clear that disorderly conduct requires a witness who is actually disturbed or provoked by the behavior. *See Manual for Courts-Martial*, pt. IV, ¶ 98(c)(2) (2019 ed.). Here, the only reason this incident became criminal is because a third party happened to witness the exchange. Yet, this witness was already familiar with the couple’s strained relationship and had seen similar arguments before. Pros. Ex. 1 at 4. Further, there was no evidence that the witness—or her daughter, who may have seen part of the exchange—suffered any harm or lasting impact. The Government did not call them to testify, leaving the record devoid of any indication that this incident caused a real disturbance. What remains, then, is a private argument that spilled into public view for a brief moment. Such an exchange is a far cry from the kind of egregious behavior that would justify both confinement and reduction in rank.

MSgt Ehly’s post-incident conduct also demonstrates contrition and rehabilitative potential. For example, MSgt Ehly immediately reconciled with his significant other. R. at 168. And, recognizing that his alcohol consumption contributed to the altercation, MSgt Ehly sought and completed ADAPT treatment. R. at 170. At the time of his court-martial, MSgt Ehly was no longer drinking alcohol to cope with his PTSD. R. at 170. By pleading guilty, MSgt Ehly ultimately took responsibility for his actions, saving the Government time and resources. Pros. Ex. 1 at 2. All

of these actions demonstrate a senior noncommissioned officer willing and able to take responsibility and make life choices to better himself and his family.

MSgt Ehly's record of service also demonstrates that the sentence in this case was inappropriately severe. MSgt Ehly served nearly twenty years with an impeccable military record. He routinely received "clearly exceeds" and "above average" ratings on his performance evaluations. Pros. Ex. 3. Despite deployments and PTSD from accident recoveries, R. at 166, MSgt Ehly excelled. Pros. Ex. 3 at 1-21. In fact, it was the service-connected PTSD that contributed to his alcohol use—alcohol use that precipitated the disagreements with his significant other and led to this incident. R. at 166, 170.

When reviewing the seriousness of the offense for which MSgt Ehly pled guilty, MSgt Ehly's service record, and MSgt Ehly's history as a stellar Airman and noncommissioned officer, it is clear that the sentence is inappropriately severe. And, while MSgt Ehly ultimately agreed to a sentence that included a reduction in pay grade to E-6, App. Ex. XIII at 2, this is not dispositive. Just because a plea agreement contains certain sentencing terms does not mean that those terms are inherently appropriate. For example, in *United States v. Kerr*, the Navy-Marine Corps Court of Criminal Appeals held that a bad-conduct discharge was an inappropriate sentence, even though it was required to be adjudged by the plea agreement. No. 202200140, 2023 CCA LEXIS 434, at \*8 n.23 (N-M Ct. Crim. App. Oct. 17, 2023).

Therefore, this Court should find the sentence inappropriately severe and disapprove the reduction in pay grade to E-6.

## II. MSgt Ehly is entitled to sentencing relief under Article 66(d)(2), UCMJ.

### A. Standard of Review

“The scope, applicability, and meaning of Article 66(d), UCMJ, is a matter of statutory interpretation that [this Court] review[s] de novo.” *Valentin-Andino*, \_\_ M.J. \_\_, No. 24-0208, 2025 CAAF LEXIS 248, at \*5 (C.A.A.F. Mar. 31, 2025) (quoting *United States v. McAlhaney*, 83 M.J. 164, 166 (C.A.A.F. 2023)).

Courts of Criminal Appeals (CCAs) have broad discretion when awarding relief for non-constitutional post-trial delay under Article 66(d), UCMJ, or *United States v. Tardif*, 57 M.J. 219 (C.A.A.F. 2002). *Valentin-Andino*, 2025 CAAF LEXIS 248, at \*11; see *United States v. Gay*, 74 M.J. 736, 744 (A.F. Ct. Crim. App. 2015), *aff’d*, 75 M.J. 264 (C.A.A.F. 2016) (articulating factors to use in assessing whether relief should be granted).

### B. Law and Analysis

1. *Gay* can no longer inform this Court’s post-trial delay analyses because it is based on statutorily abrogated caselaw.

In 2002, the Court of Appeals for the Armed Forces (CAAF) held that “an accused has a [statutory] right to timely review of the findings and sentence.” *Tardif*, 57 M.J. at 222 (citing Article 66(c), UCMJ, 10 U.S.C. § 866(c) (2000)). Under then-Article 66(c), CCAs had the authority to “tailor an appropriate remedy” for excessive post-trial delay. *Tardif*, 57 M.J. at 225. *Tardif* relief was distinct from relief under the Constitution. *Gay*, 74 M.J. at 742 (“[The Court of Appeals for the Armed Forces] has specifically recognized that the [CCAs] have broad discretion to grant or deny relief for unreasonable or unexplained post-trial delay, even where the delay does not rise to the level of a due process violation.”).

Following *Tardif*, this Court decided *Gay*. *Gay* established a non-exhaustive list of factors to determine whether relief should be provided under then-Article 66(c). 74 M.J. at 742. Congress

then passed the Military Justice Act of 2016. *United States v. Allison*, No. 201800251, 2021 CCA LEXIS 605, at \*13 n.39 (N-M. Ct. Crim. App. Nov. 16, 2021). This Act “amended the UCMJ such that Article 66(d)(2), UCMJ, specifically invests the [CCAs] with authority to grant ‘appropriate relief’ for . . . excessive delay.” *Id.* at \*13 n.39; *see* 10 U.S.C. § 866(d)(2) (prescribing that a “[CCA] may provide appropriate relief if the accused demonstrates . . . excessive delay in the processing of the court-martial after the judgment was entered into the record”).

In *Valentin-Andino*, the CAAF declined to apply its *Tardif* (and Article 66(c)) precedent to Article 66(d)(2). 2025 CAAF LEXIS 248, at \*10. As the CAAF noted, the plain text of Article 66(d)(2), not the CAAF’s precedent under Article 66(c), informs the type and manner of relief. *Id.* Despite this change to the law, and clear guidance from the CAAF, this Court continues to use *Gay* to inform its decisions under Article 66(d)(2). *See, e.g., United States v. Covitz*, No. ACM 40193 (reh), 2025 CCA LEXIS 105, at \*40-42 (A.F. Ct. Crim. App. Mar. 19, 2025); *but see United States v. Hagen*, No. ACM 40561, 2025 CCA LEXIS 234, at \*25-26 (A.F. Ct. Crim. App. May 28, 2025).

2. A new test is needed for relief given under Article 66(d)(2) for unreasonable post-trial delay.

As the CAAF has informed, decisions under Article 66(d)(2) cannot be informed by *Tardif* precedent. *Valentin-Andino*, 2025 CAAF LEXIS 248, at \*10 n.4. But that’s precisely what *Gay* is: *Tardif* precedent. Therefore, a new test is needed to assess whether relief is “appropriate” under Article 66(d)(2) for unreasonable post-trial delay.

The CAAF provided some guidance in *Valentin-Andino*: relief under Article 66(d)(2) should be “suitable or right for a particular situation.” *Id.* at \*8 (citing *Appropriate*, MERRIAM-WEBSTER COLLEGIATE DICTIONARY (11th ed. 2020)). The relief provided under Article 66(d)(2) should, therefore, “be suitable for a particular situation,” taking into account the particular offense,

the particular appellant, and the delay in the case. *Compare id.* at \*9, with Article 66(d)(2), UCMJ. Such relief can be meaningful (i.e., imparting some value), but it need not be. *Id.* at \*8-9.

Taking the CAAF's guidance in *Valentin-Andino* into account, a three-part balancing test emerges which should replace the *Gay* factors. This test balances the particular offense, the particular appellant, and the nature and length of the delay. After balancing these factors, this Court can determine what relief, if any, would "be suitable" for the case. Ultimately, this Court would have the discretion to grant relief "appropriate" under the circumstances, which satisfies the command in Article 66(d)(2), and the CAAF's admonitions in *Valentin-Andino*.

This approach is also consistent with that taken by the Army Court of Criminal Appeals (Army Court). For example, in *United States v. Lathrop*, the Army Court determined that 211 days of post-trial delay was excessive. ARMY 20230506, 2025 CCA LEXIS 63, at \*7 (A. Ct. Crim. App. Feb. 14, 2025). The Army Court then balanced the circumstances of the case before ultimately reducing the confinement time by fifteen days. *Id.*

In this case, using the suggested balancing test results in relief. First, the nature of the offense, as discussed *supra*, was not egregious; there was no force or violence and no named victims. Second, this particular appellant demonstrated significant rehabilitative potential and had a superb Air Force career, both of which weigh in favor of appropriate relief. Last, the length of the delay in this case was exceptionally unreasonable. It took the Government 433 days to send MSgt Ehly his notice of right to appeal. Then, despite an over year-long delay, the Government took another 113 days to prepare a 183-page transcript. These delays require relief which this Court can, and should, award under Article 66(d)(2).

3. Even if *Gay* informs Article 66(d)(2) analyses, relief would be appropriate in this case.

In *Gay*, this Court set out the following factors to determine whether relief is appropriate:

1. How long did the delay exceed the standards set forth in *United States v. Moreno*, 63 M.J. 129 (C.A.A.F. 2006)?
2. What reasons, if any, has the government set forth for the delay? Is there any evidence of bad faith or gross indifference to the overall post-trial processing of this case?
3. Keeping in mind that our goal under *Tardif* is not to analyze for prejudice, is there nonetheless some evidence of harm (either to the appellant or institutionally) caused by the delay?
4. Has the delay lessened the disciplinary effect of any particular aspect of the sentence, and is relief consistent with the dual goals of justice and good order and discipline?
5. Is there any evidence of institutional neglect concerning timely post-trial processing, either across the service or at a particular installation?
6. Given the passage of time, can this court provide meaningful relief in this particular situation?

74 M.J. at 744.

Each factor weighs in favor of granting relief in this case. First, the delay exceeded the standards set out in *Moreno*.<sup>1</sup> *Moreno* held that there was a presumptively unreasonable delay when a case was not docketed at a CCA within thirty days of the convening authority's decision on action. 63 M.J. at 142. The convening authority's decision on action in this case occurred on 11 October 2022; this case was not docketed with this Court until 2 April 2024: 539 days later. Even accounting for the time MSgt Ehly took to file his notice of direct appeal, the delay is still egregious: 449 days. This factor clearly weighs in favor of MSgt Ehly.

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<sup>1</sup> This Court has noted that *Moreno* may not be applicable to cases processed after the implementation of the Military Justice Act of 2016. *United States v. Livak*, 80 M.J. 631, 633 (A.F. Ct. Crim. App. 2020). Moreover, this Court also recognized that "neither *Livak* nor *Moreno* are directly applicable" to direct appeals. *United States v. Gray*, No. ACM 40648, 2025 CCA LEXIS 122, at \*15-16 (A.F. Ct. Crim. App. Mar. 24, 2025).

Second, it is unclear from the record why it took the Government over a year to inform MSgt Ehly of his right to appeal to this Court. Nor is it readily apparent from the record why, after being docketed with this Court, it took the Government an additional 113 days to prepare a 183-page verbatim transcript. This factor, therefore, weighs in favor of MSgt Ehly.

Third, as this Court recognized in *Gay*, it is unnecessary to find prejudice to award relief under Article 66. However, in this case, where the delay from sentence to docketing is over 400 days, there is inherent harm. As the Supreme Court implied in *Barker v. Wingo*, anxiety and concern are inherent with each day of delay; the more delay there is, the more anxiety and concern a defendant suffers. 407 U.S. 514, 532 (1972). This is particularly true in a case like MSgt Ehly's, where the sentence imposed (reduction to E-6) is inappropriately severe, and has had financial ramifications on his retirement.

Fourth, relief is consistent with the dual goals of justice and good order. As discussed, *supra*, relief is appropriate under the circumstances of this case, considering the nature of the offense, the length of the delay, and this particular appellant. As such, this factor weighs in favor of relief.

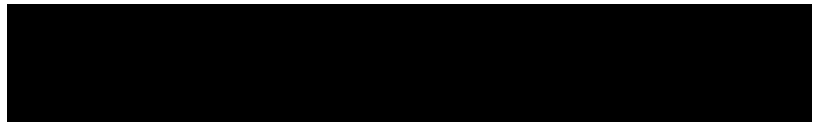
Fifth, there is evidence of institutional neglect in the Air Force concerning post-trial processing. See *United States v. Valentin-Andino*, No. ACM 40185 (f rev), 2024 CCA LEXIS 223, at \*17 (A.F. Ct. Crim. App. June 7, 2024), *aff'd*, 2025 CAAF LEXIS 248 (“Post-trial processing errors . . . are happening at an alarming frequency in the Air Force.”); see also *United States v. Cassaberry-Folks*, No. ACM 40444, 2024 CCA LEXIS 500, at \*43 (A.F. Ct. Crim. App. Nov. 22, 2024) (“This court has recently been obliged to grapple with a series of cases involving post-trial delay at various stages, all of which raise serious questions as to the scope of potential institutional neglect within the Air Force, particularly when it comes to timely and accurate assembly of records

of trial and forwarding of verbatim trial transcripts.”). Resulting, this factor weighs in favor of relief.

Sixth, meaningful relief can be provided by either disapproving the adjudged confinement time or the reduction in grade. Both forms of relief will result in a practical benefit for MSgt Ehly, namely financial compensation. Either type of relief would be meaningful. *See United States v. Borosak*, 67 M.J. 23 (C.A.A.F 2007).

Therefore, whether under *Gay* or the proposed new test, sentencing relief is warranted. This Court should determine that relief is appropriate and disapprove the rank reduction.

Respectfully submitted,

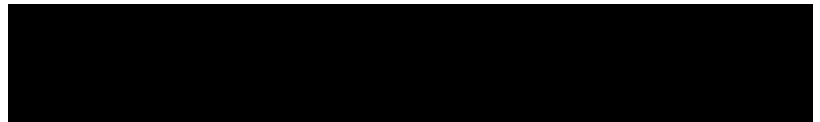


TREVOR N. WARD, Maj, USAF  
Appellate Defense Counsel  
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**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 8 July 2025.

Respectfully submitted,



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

UNITED STATES	)	No. ACM 23004
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>NOTICE OF PANEL CHANGE</b>
Tyler B. EHLY	)	
Master Sergeant (E-7)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	

It is by the court on this 4th day of August, 2025,

**ORDERED:**

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

This panel letter supersedes all previous panel assignments.



FOR THE COURT



A  
Commissioner

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

UNITED STATES,	)	BRIEF ON BEHALF
<i>Appellee,</i>	)	OF THE UNITED STATES
	)	
	)	Before Panel 3
v.	)	
	)	No. ACM 23004
	)	
Master Sergeant (E-7)	)	7 August 2025
<b>TYLER B. EHLI, USAF</b>	)	
<i>Appellant.</i>	)	

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

**ASSIGNMENTS OF ERROR**

**I.**

**MSGT EHLI PLED GUILTY AND WAS SENTENCED TO THE MAXIMUM PUNISHMENT UNDER THE PLEA AGREEMENT. IS THE ADJUDGE SENTENCE INAPPROPRIATELY SEVERE?**

**II.**

**MSGT EHLI WAS SENTENCED ON 13 SEPTEMBER 2022. THIS COURT DID NOT RECEIVE A VERBATIM RECORD UNTIL 24 JULY 2024, 680 DAYS LATER. IS MSGT EHLI ENTITLED TO SENTENCING RELIEF UNDER 66(D)(2), UCMJ, FOR UNREASONABLE POST-TRIAL DELAY?**

**STATEMENT OF THE CASE**

Appellant was convicted by a military judge at a special court-martial of disorderly conduct in violation of Article 134, UCMJ. Appellants case became final under Article 57(c)(1) UCMJ on 22 December 2022, before the amendments to Article 66, UCMJ, took effect. (Entry of Judgement, 22 December 2022, ROT Vol. 1, Pg. 3). These amendments, which Appellant relies on for jurisdiction, were published on 23 December 2022. See Pub. L. No. 117-263, §

544(b)(1)(A), 136 Stat. 2395, 2582 (23 Dec. 2022). Appellant is asking this Court to give him the additional benefit of a second review of his sentence. The United States maintains that this Court does not have jurisdiction over cases finalized before these changes, including Appellant's, but recognizes this Court's contrary decision, in United States v. Vanzant, 84 M.J. 671 (A.F. Ct. Crim. App. 28 May 2024). The United States continues to assert this position regarding lack of jurisdiction in case of additional litigation at higher courts.

### **STATEMENT OF FACTS**

I saw [Appellant] use his feet to sweep [Appellant's fiancée] legs out from under her while I was in the car. My daughter started panicking and I told her to turn away and don't look. Then I got out of my car, [Appellant's fiancée] was sobbing, she got up and started to gather her things. Then I saw [Appellant] grab her and around the torso and throw her onto the ground."

(Pros. Ex. 1, Stipulation of Fact at 4).

Appellant's fiancée's friend made this report to law enforcement, after she went Appellant's home to help his fiancée escape his violent behavior. (Id.) The friend pleaded with Appellant to stop, even pointing out that a child was watching. (Id.) Appellant instead broke outdoor furnishings and threw his fiancée's belongings into the front yard. (Id.) Appellant admitted he knew his fiancée was trying to "get away" but he refused to stop arguing. (R. at 27). The friend's report to law enforcement initiated an investigation into Appellant's behavior towards his family. (Id.) Appellant was originally charged with one charge and three specifications of domestic violence in violation of Article 128b, Uniform Code of Military Justice (UCMJ). Pursuant to a plea agreement, the domestic violence charge was withdrawn, and a single charge of disorderly conduct in violation of Article 134, UCMJ was added, with the forum changed to a special court-martial. (App. Ex. XIII, Offer for Plea Agreement).

Appellant pleaded guilty to disorderly conduct at that special court-martial. (R. at 93). The plea agreement was highly favorable, capping punishment at a one grade reduction and up to 30 days of confinement for alcohol treatment. (App. Ex. XIII, Plea Agreement, R. at 125). The agreement explicitly prohibited the judge from imposing extra duties, forfeitures, fines or hard labor. (Id. at 2-3). The Military Judge imposed the required one-rank reduction, a reprimand and 30 days of confinement for treatment. (R. at 155).

Appellant's claim of a post-trial delay stems from the 23 December 2022 UCMJ amendment, which expanded appellate review for some servicemembers. Appellant's record of trial was certified on 19 December 2022. (Entry of Judgment at 3). At that time Appellant was not entitled to Article 66(d), UMCJ, review, and therefore the court reporter only prepared a summarized transcript in 2022. On 23 December 2022, Congress amended Article 66, UCMJ, to provide appellate review to servicemembers convicted at general and special courts-martial, regardless of the adjudged sentence. *See National Defense Authorization Act (NDAA) for Fiscal Year 2023, Public Law No. 117-263, 136 Stat. 2395, Section 544.* These amendments expanded the number of service members who are eligible for CCA review. Later in 2024, the Air Force instituted a requirement for a certified verbatim transcript in all general and special courts-martial in which there is a finding of guilty. *See Department of the Air Force Instruction (DAFI) 51-201, Administration of Military Justice, para. 20.47.1 (24 January 2024).* Appellant was notified of his right to appeal his sentence in January 2024.

On 2 April 2024, Appellant filed a notice of direct appeal with this Court, it was docketed that same day. (Notice of Docketing, 2 April 2024). This Court did not specify a deadline to have the record of trial forwarded. (Id.) A summarized transcript had been completed, as was required at the time of the initial post-trial processing of Appellant's case. (Certification of Transcript, 28

September 2022, ROT, Vol 3.) However, once the direct appeal was filed, the government decided to provide Appellant with the verbatim transcript that servicemembers are entitled to under the current version of the Rule. The Court Reporter for a verbatim transcript was detailed on 17 April 2024 and completed the transcript on 22 July 2024. (Court Reporter Chronology, Undated, ROT Vol. 4).

Crucially, after the verbatim transcript was completed, Appellant filed and was granted, nine motions for an enlargement of time (EOT) - beginning on 12 September 2024. (Enlargement of Time, 12 Sept. 2024). The first was filed on 12 September 2024, two months after the transcript was completed. EOT 2 was filed on 5 November 2024, EOT 3 on 11 December 2024, EOT 4 on 13 January 2025, EOT 5 on 7 February 2025, EOT 6 on 11 March 2025, EOT 7 on 11 April 2025, EOT 8 on 11 May 2025, and EOT 9 on 9 June 2025. Nearly a year after the transcript was completed, Appellant filed his Assignment of Errors brief. (App. Br., 8 July 2025).

## **ARGUMENT**

### **I.**

#### **THE ADJUDGED SENTENCE IMPOSED PURSUANT TO APPELLANT'S FAVORABLE PLEA AGREEMENT IS APPROPRIATE**

##### *Standard of Review*

The standard of review for sentence appropriateness is a de novo review. United States v. Lane, 64 M.J. 1, 2 (C.A.A.F. 2006). The Court may only affirm the sentence if it finds the sentence to be “correct in law and fact and determines, on the basis of the entire record, [it] should be approved.” Article 66(d)(1), UCMJ.

**The sentence is appropriate given the offense and evidence.**

This Court has great discretion to determine sentence appropriateness, but does not have the authority to grant clemency or mercy. United States v. Nerad, 69 M.J. 138, 146 (C.A.A.F. 20 2010) (citation omitted). Unlike the act of bestowing mercy through clemency, which was delegated to other channels by Congress, CCAs are entrusted with the task of determining sentence appropriateness, thereby ensuring the accused gets the punishment he deserves. United States v. Healy, 26 M.J. 394, 395-96 (C.M.A. 1988). Sentence appropriateness is assessed “by considering the particular appellant, the nature and seriousness of the offense, the appellant’s record of service, and all matters contained in the record of trial.” United States v. Anderson, 67 M.J. 703, 705 (A.F. Ct. Crim. App. 2009).

A review of the relevant factors demonstrates that the appellant’s sentence is appropriate. First, the nature and seriousness of the offense warrant the adjudged punishment. (Entry of Judgment, ROT, Vol. 1). Appellant admitted to consuming alcohol to the point of blackout on the night of the incident, leaving him with no recollection of the events that led to a violent argument. (R. at 24). Appellant further acknowledged that his fiancée’s friend and the friend’s child witnessed the incident. (Id.) The child observed the appellant’s behavior and began to panic. (Pros. Ex. 1, Stipulation of Fact, at 4). During the altercation, as his fiancée attempted to flee, Appellant shattered a flowerpot and threw objects across the front lawn. (Id. at 1). Appellant conceded that his conduct was both disorderly and discrediting to the service. (Id. at 126).

Despite these admissions, Appellant now attempts to minimize the impact of his behavior on those involved and on the reputation of the Air Force. In his brief, Appellant claims that the witnesses were not “actually disturbed or provoked,” and characterizes the incident as merely “a

private argument that spilled briefly into public view.” (App. Br. at 5). This assertion is contradicted by the record. The fiancée’s friend, who witnessed the behavior, reported Appellant to civilian law enforcement and described her daughter’s distress at observing the incident. (Pros. Ex. 1, Stipulation of Fact, at 4). Appellant stipulated that these facts were true and accurate. (Id.)

Appellant also informed the military judge that witnesses identified him to law enforcement as “an Air Force man,” a label that, in his own view, cast the Air Force in a negative light. (R. at 126). Appellant attempts to further downplay the seriousness of the offense by suggesting that the witnesses—his fiancée’s friend and her daughter—were not disturbed because they were accustomed to his aggressive behavior. (App. Br. at 5). The Stipulation of Fact does not support this claim, since it contains no reference to the witnesses’ familiarity with such conduct. Even assuming the claim is accurate, a witness’s familiarity with an accused’s violence is not a mitigating factor—it is an aggravating one. The friend was concerned enough to report the appellant to civilian law enforcement. (Pros. Ex. 1, Stipulation of Fact, at 4). If it is true that the friend was familiar with the appellant “sweeping” his fiancée’s legs out from under her and tackling her to the ground, as he did during the offense, it suggests a troubling pattern of misconduct. Appellant himself admitted that such behavior was unacceptable. (Id.; R. at 27). The nature and extent of the appellant’s conduct fully justify the sentence imposed.

Second, Appellant’s record of service was undistinguished, lacking “any particular acts of good conduct or bravery and evidence of the reputation or record of the accused in the service for efficiency, fidelity, subordination, temperance, courage, or any other trait that is desirable in a servicemember.” (R.C.M. 1001(d)(1)(B)); see also United States v. Talkington, 73 M.J. 212, n.2 (C.A.A.F. 2014) (reiterating the standard for matters in extenuation and mitigation in R.C.M.

1001(d)(1)(B)). Appellant contends that his sobriety following the offense and his expressed willingness to accept responsibility demonstrate the character of a noncommissioned officer capable of accountability. (App. Br. at 6). These post-offense efforts, while positive, must be viewed in the broader context of an individual facing a serious court-martial. The pursuit of sobriety was the best way for Appellant to avoid further disciplinary consequences; it does not make Appellant a stellar Airman. The military judge duly considered the entirety of Appellant's record and imposed the rank reduction and confinement in accordance with the plea agreement.

The military judge did consider some mitigating evidence, and determined they did not outweigh the aggravating facts of the offense. Appellant's fiancée wrote to the court asking for leniency. (App. Ex. XIII, Offer for Plea Agreement at 9). Even with her plea for leniency, the Court decided that the grade reduction and confinement was appropriate. Appellant does not present any convincing reasons to reduce his sentence, and this Court should affirm the one grade reduction and confinement period.

**The adjudged sentence is well within the favorable plea agreement.**

Appellant received the punishment he deserved based on his actions and the exceptionally favorable plea agreement he negotiated. This Court should not provide further relief.

Appellant argues his punishment was unfair, despite being well within the plea agreement he negotiated. (App. Br. at 4). As this Court has held, an "accused's own sentence proposal is a reasonable indication of its probable fairness to him." United States v. Fields, 74 M.J. 619, 625 (A.F. Ct. Crim. App. 2015) (citations omitted). See United States v. Jackson, 2024 CCA LEXIS 9, \*18 (A.F. Ct. Crim. App. 2024)(unpub. op.) ("A plea agreement with the convening authority is some indication of the fairness and appropriateness of [an appellant's] sentence." (citation

omitted)). Under the plea agreement, Appellant avoided a general court-martial, significantly reducing his punitive exposure. Had he faced trial on the original domestic violence charge and its three specifications, he risked years of confinement, a dishonorable discharge, and forfeiture of all pay and allowances. (MCM, pt. IV, ¶51d. (2) (2019 ed.); R.C.M. 1003(b)(8)(B)). The change in forum capped punishment at forfeitures of two-thirds pay for four months, four months confinement, and reduction to E-1. (R. at 120). Appellant further reduced his exposure through the plea agreement, capping punishment at a single rank reduction, with up to 30 days of confinement for treatment and no forfeitures. (App. Ex. III, Plea Agreement). The military judge appropriately sentenced Appellant to a one-grade reduction, a reprimand, and 30 days of confinement. (Entry of Judgment, ROT, Vol. 1).

Appellant cites the uninformative case of United States v. Kerr, No. 202200140, 2023 CCA LEXIS 434, (N-M Ct. Crim. App. Oct. 17, 2023) where a bad-conduct discharge, as part of an executed plea agreement, was deemed inappropriate, to argue that his plea agreement should not be enforced by this Court. (App. Br. at 6). Kerr was a Marine convicted of larceny and issued a bad-conduct discharge pursuant to a plea agreement. Kerr's exemplary service record—including heroic actions during the Afghanistan withdrawal—is in stark contrast to Appellant's less distinguished history. Kerr was convicted of a property-related offense, while Appellant engaged in violent conduct, witnessed by civilians, including a child, so Kerr's crime was less egregious. (Pros. Ex. 4, Stipulation of Facts). Finally, the consequences faced by Kerr—a punitive discharge—are significantly more severe than the single reduction in grade imposed on Appellant. Taken together, Appellant's plea agreement, offense, and service record do not align with those in Kerr. Therefore, the terms of Appellant's plea agreement should stand.

Having successfully negotiated a plea agreement limiting the court's available punishments, and the military judge having adjudged a sentence within that range, Appellant is not entitled to further relief. This Court should affirm the sentence in this case.

## II.

### **NO REMEDY FOR POST-TRIAL DELAY IS WARRANTED UNDER ARTICLE 66(D)(2), UCMJ**

#### *Standard of Review*

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

#### *Law and Analysis*

Appellant claims entitlement to sentencing relief for post-trial delay under Article 66(d)(2), UCMJ. (App. Br. at 7-11). If an unreasonable delay occurred, the factors guiding relief do not weigh in Appellant's favor. This Court applies an aggregate standard threshold to ensure appellants' due process rights to timely post-trial and appellate review are protected. Livak, 80 M.J. at 633. To avoid unreasonable delay, the entire period from the end of trial to docketing on appeal must be within 150 days. Id. at 633-634. However, this Court held the 150-day Livak threshold is not automatically applied to direct appeals, and the Court did not establish a new timeline. (United States v. Boren, No. ACM 40296 (f rev), 2025 CCA LEXIS 103, at \*43 (A.F. Ct. Crim. App. 19 Mar. 2025)(unpub. op.).

When a delay is presumptively unreasonable, courts apply a balancing test to determine whether a due process violation occurred, which includes: (1) the length of the delay; (2) the reasons for the delay; (3) the appellant's assertion of the right of timely review and appeal; and

(4) prejudice, which considers preventing oppressive pretrial incarceration, minimizing anxiety of the accused, and limiting the possibility of an impaired defense. All four factors are considered together and “[n]o single factor is required for finding a due process violation and the absence of a given factor will not prevent such a finding.” Moreno at 136. CAAF identified three types of cognizable prejudice for purposes of an appellant’s due process right to timely post-trial review: (1) oppressive incarceration; (2) “particularized” anxiety and concern “that is distinguishable from the normal anxiety experienced by prisoners awaiting an appellate decision;” and (3) impairment of the appellant’s grounds for appeal or ability to present a defense at a rehearing. Moreno at 138–140.

To find a due process violation when there is no prejudice under the fourth Barker factor, a court would need to find that, “in balancing the other three factors, the delay is so egregious that tolerating it would adversely affect the public’s perception of the fairness and integrity of the military justice system.” United States v. Toohey, 63 M.J. 353, 362 (C.A.A.F. 2006). In United States v. Valentin-Andino, 85 M.J. 361 (C.A.A.F. 2025), CAAF determined “[i]f a Court of Criminal Appeals decides relief is warranted for excessive posttrial delay under Article 66(d)(2), that relief must be “appropriate,” meaning it must be suitable considering the facts and circumstances surrounding that case.” CAAF also stated in Valentin-Andino, “[e]rrors regarding post-trial delay are now solely governed by Article 66(d)(2). Accordingly, Tardif and its progeny have been superseded by Article 66(d)(2)”. (Id. at n.4.)

### **The post-trial delays did not create any prejudice.**

To begin the appellate review process, a case needs to be docketed. Appellant filed a notice of direct appeal on 2 April 2024, and his case was docketed the same day. (Notice of Docketing, 2 April 2024). Therefore, there was no delay in docketing this direct appeal case.

On this point, Appellant and the Government mostly agree. (App. Br. at 3). The disagreement focuses on whether the trigger date for the verbatim transcript should be is the docketing date, or the conclusion of the trial. At the time of Appellant’s sentencing, the applicable regulation required verbatim transcripts for all findings of guilt only if the sentence included death, dismissal, punitive discharge, or confinement for more than six months. (Entry of Judgement, ROT Vol. 1) DAFMAN 51-203, para. 11.1.1; R.C.M. 1114. The government asserts that the record was complete in December 2022, when the case was certified. However, when this direct appeal was filed, and the case was docketed, the government ordered a verbatim transcript, to assist both parties in presenting their arguments to this Court. The Court Reporter for the verbatim transcript was detailed on 17 April 2024 and completed the transcript on 22 July 2024. (Certification of Transcript, Undated, ROT, Vol. 3). That verbatim transcript was done in a timely manner, less than 150 days. Appellant argues that “[d]espite an over year-long delay, the Government took another 113 days to prepare a 183-page transcript.” (App. Br. at 9). One-hundred and thirteen days to produce a verbatim transcript is well within the reasonableness standard, and there was no delay in assembling the verbatim transcript.

The only actual delay over 150 days in this case is the delay between certification of the case and notice of appeal rights. On 3 January 2024, the Government notified Appellant of his right under Article 66(b)(1)(A), UCMJ, to appeal his conviction to this Court. (ROT Vol. 1). This notification happened more than a year after the changes to Article 66 went into effect. The Government should not be held liable for this delay. The FY23 NDAA did not contain specific guidance regarding which cases then new law applied to, and this question is currently under review at the Court of Appeals for the Armed Forces. *See United States v. Folts*, No. 25-0043/AF, 2025 CAAF LEXIS 220 (C.A.A.F. Mar. 24, 2025). The FY23 NDAA failed to

include any language requiring a notification under Article 65(c) to older cases that had already received Article 65(d) review, making the government's job of identifying cases that required notice challenging – especially for cases in which there was already a final judgment as to the legality of the proceedings under Article 57(c)(2). However, the Government recognizes the Court's recent discussion of this issue in United States v. Adams, No. ACM 22018 (AFCCA 29 July 2025)(unpub. op.), finding that delaying an Appellant's notification of direct appeal rights for over a year is an unreasonable delay, even if the record was certified and the case was final under Article 57(c)(1) before the change in law. The government respectfully disagrees with the Court's decision and argues that the delay was not unreasonable, given the circumstances of the change in law and the government's position that this Court lacks jurisdiction to review cases that were final prior to the change in Article 66. Even if this Court decides, as it did in Adams that the delay in notifying Appellant was unreasonable, Appellant is still not entitled to sentencing relief for the delay.

**The Barker factors do not weigh in favor of any relief.**

A Barker analysis of the Government's delay of his notice of appeal rights does not afford Appellant sentencing relief. This Court must weigh the length of the delay, the reasons for the delay, Appellants assertion of his right to a timely appeal and any prejudice suffered. (Barker, 63 M.J. at 135). First, the delay was lengthy, but the reasons for the delay were generally outside of the Government's control. The lack of guidance in the law and the amount of work needed to identify appellants and notify them, was time-consuming and burdensome. When Appellant did file his notice of appeal, the Government complied with all guidelines and did not contribute to any delays.

Second, Appellant only asserted his right to a timely appeal once, in his Assignments of Error Brief. (App. Br. 7). Before asserting this right, Appellant filed nine motions for an enlargement of time. Despite the transcript being prepared within a reasonable timeframe, the appellant postponed the resolution of his appeal for nearly a year with those motions for enlargements of time, and now asserts that the brief period required to produce the verbatim transcript was excessive. This should weigh in the Government's favor.

Finally, Appellant does not claim any particularized prejudice. Appellant did not suffer prolonged incarceration, when he was confined for 30 days for alcohol treatment, pursuant to a plea agreement. Nor was Appellant prevented from filing his appeal and seeking a resolution. In fact, the delay allowed Appellant an additional review of his case, that was not permitted at the time of his case certification. Additionally, the verbatim transcript allowed him to prepare a brief in this case. Appellant's only reference to prejudice are "financial ramifications [in] retirement". (App. Br. at 11). That ramification, of a single grade reduction, that Appellant *agreed should be required* in his sentence, is not a particularized prejudice deserving of any relief.

Appellant does not provide a Barker analysis but instead proposes a new balancing test asking this Court to weigh an individual offense, the individual Appellant, and the nature and length of the delay to decide if relief is warranted for an unreasonable delay. (App. Br. at 9). Even applying this proposed test, Appellant should not be granted relief. First, the offense was the result of years of alcohol abuse and was so egregious that a civilian took time to report Appellant to civilian law enforcement out of concern for Appellant's family. (Pros. Ex. 1, Stipulation of Fact, R. at 126). Second, the only evidence of Appellant's significant rehabilitative potential is his reported sobriety during his pretrial process. That is not enough of

a special circumstance to warrant sentencing relief. Finally, as discussed, the only delay was not intentional, and did not prejudice Appellant. The delay did not have a negative effect on Appellant's rights, as he took months to assert any assignments of error. Appellant is not entitled to relief under this proposed test

**Appellant is not entitled to relief under the Gay factors.**

The Government and Appellant agree that CAAF in Valentin-Andino 85 M.J. 361 (C.A.A.F 2025) directs this Court to evaluate post-trial delay solely under its Article 66 authority, independent of the prior case precedent of United States v. Tardif, 57 M.J. 219 (C.A.A.F. 2002). CAAF did not address United States v. Gay, 74 M.J. 736, 744 (A.F. Ct. Crim. App. 2015) or its role as a guide for whether to grant relief under Article 66, UCMJ. If those Gay factors remain relevant even after Valentin-Andino, Appellant does not qualify for relief under them.

The non-exhaustive factors are:

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

Gay, 74 M.J. at 744.

The delay in this case does not meet any of the relevant factors. Here, although the notification of the right to appeal was delayed, there was no bad faith nor neglect concerning the post-trial processing. Appellant did not suffer any harm, as he was still able to file his direct appeal and had the benefit of a verbatim transcript. Appellant asserts institutional neglect from the Air Force is a pattern and that this weighs in his favor. (App. Br. at 11). However, in this case, the Government worked diligently from the time of docketing to transmit the record of trial and comply with all applicable deadlines. The court reporter worked on transcribing three other cases while transcribing this transcript. (Certification of Transcript, 22 July 2024, ROT, Vol. 3). There were also issues with the two-year-old audio and documents from trial counsel and defense counsel had to be shared for the transcript to be complete. (Id.) The Court reporter enlisted the help of a typing assistant to expedite the process. (Id.) Overall, it took 113 days between the time the case was docketed to the verbatim transcript being transmitted. In contrast, Appellant's own actions – filing nine motions for an enlargement of time, delayed his post-trial process by nearly a year. Appellant did not suffer from any delay.

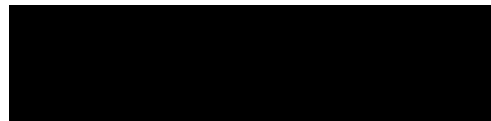
Appellant further makes the unfounded claim that providing relief is consistent with the goals of both justice and good order and discipline. (App. Br. at 11.) This argument fails because Appellant's offense had an impact on good order when he discredited the service by publicly arguing with his fiancée and breaking things, in front of a child. Granting relief would amount to an appellate windfall inconsistent with justice or good order and discipline, especially given the seriousness of Appellant's crime in the absence of governmental bad faith. The six Gay factors weigh decisively in the Government's favor. The delay was not an egregious and prejudicial delay requiring post-trial sentencing relief from this Court. This Court should deny this assignment of error and decline to reassess Appellant's sentence.

**CONCLUSION**

**WHEREFORE**, the United States respectfully requests that this Honorable Court affirm the sentence in this case.

**/s/Devana Unis**

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**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 7 August 2025.

**/s/Deyana Unis**  
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**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

<b>UNITED STATES,</b>	)	<b>Reply Brief</b>
<i>Appellee,</i>	)	
	)	Before Panel 3
v.	)	
	)	No. ACM 23004
Master Sergeant (E-7)	)	
<b>TYLER B. EHLI,</b>	)	
United States Air Force,	)	14 August 2025
<i>Appellant.</i>	)	

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

**I. This Court has jurisdiction to hear this appeal.**

As the Government rightly concedes, this Court held in *Vanzant* that courts of criminal appeals have authority to hear cases even after completion of Article 57, Uniform Code of Military Justice (UCMJ), review. Ans. at 1–2<sup>1</sup> (citing *United States v. Vanzant*, 84 M.J. 671, 676 (A.F. Ct. Crim. App. 2024)). Nevertheless, the Government “continues to assert” that there is no jurisdiction in this case because Article 57, UCMJ, review was completed. Ans. at 2. But based on this Court’s own precedent, it has jurisdiction to review this case. *Vanzant*, 84 M.J. 671.

**II. The reduction in grade to E-6 and thirty days of confinement is inappropriately severe.**

The nature of the offense and MSgt Ehly’s extraordinary service record demonstrate that the reduction to E-6 and thirty days of confinement is inappropriately severe. The offense for which MSgt Ehly was found guilty was a verbal dispute with his romantic partner, nothing more. R. at 108–09. The Government attempts, in vain, to make the offense more than it was by focusing on

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<sup>1</sup> The Government failed to include page numbers in its brief. References to the Government’s Answer are based on a manual page count.

the statements of a third-party witness. Ans. at 5–6; Pros Ex. 1 at 4. As an initial matter, the Government claims these statements were stipulated by MSgt Ehly as true. Ans. at 5–6. But MSgt Ehly made no such stipulation. Pros. Ex. 1; R. at 103. Instead, MSgt Ehly only stipulated that the statements were made. R. at 103 (“[T]he attachment, which appears to be some type of written statement . . . you are not agreeing to the contents . . . being true.”). As even the Government seems to acknowledge, MSgt Ehly could not have known whether the statements were true because he was in a “blackout” state and had “no recollection of the events.” Ans. at 5.

Additionally, the fact that MSgt Ehly struggled with alcohol dependence, R. at 166, mitigates the misconduct in this case. This is particularly true because MSgt Ehly used alcohol to cope with his service-connected post-traumatic stress disorder. R at 166. The Government would have this Court view alcohol use as an aggravator, full stop. Ans. at 5-7. The Government goes so far as to say that “sobriety [is] the best way” to “avoid further disciplinary consequences.” Ans. at 7. This blanket claim is unsupported by the facts of this case or the law. Nevertheless, MSgt Ehly recognized alcohol had a negative impact on his life and, by the time of his trial, MSgt Ehly no longer drank. *Cf.* R. at 170 (stating that he attended ADAPT and “look[ed] forward to . . . being involved with [his] kids’ lives in a way that [he] could never be when [he] was . . . drinking”). The Government fails to acknowledge the rehabilitative potential of MSgt Ehly’s alcohol treatment and voluntary sobriety.

The Government continues by arguing that MSgt Ehly “attempts to minimize the impact of his behavior on those involved.” Ans. at 5. Not at all. MSgt Ehly recognizes the seriousness of the offense—this is why he pled guilty and took responsibility. Pros. Ex. 1 at 2. But this Court must do “justice.” *United States v. Nerad*, 69 M.J. 138, 146 (C.A.A.F. 2010). In this case, that means reviewing the sentence in light of the charge for which MSgt Ehly was *actually* found guilty

(i.e., a verbal altercation with his partner) rather than the one the Government wishes it could have proved. *Contra* Ans. at 5-6 (describing a violent incident that MSgt Ehly did not, and could not, plead guilty to).

MSgt Ehly acknowledges that he agreed to a maximum sentence that could include a reduction to E-6. While this fact weighs against MSgt Ehly, *United States v. Fields*, 74 M.J. 619, 625 (A.F. Ct. Crim. App. 2015), it is not dispositive. See *United States v. Kerr*, No. 202200140, 2023 CCA LEXIS 434, at \*8 (N-M. Ct. Crim. App. Oct. 17, 2023) (holding that, just because an appellant agrees to a specific punishment, courts of criminal appeals must still perform their sentence appropriateness review). The Government attempts to distinguish *Kerr*, but in doing so makes two critical errors. First, the Government undersells the facts of *Kerr*. Ans. at 8 (“Kerr was convicted of a property-related offense.”). But *Kerr* was convicted of *serious* larceny: stealing explosive flashbangs, gas cannisters, and a fellow Marines car.<sup>2</sup> 2023 CCA LEXIS 434, at \*2. Conversely, MSgt Ehly was convicted of disorderly conduct for a private, romantic dispute that spilled over to the yard. The Government is right that *Kerr*’s facts are different: the seriousness of *Kerr*’s misconduct was far greater.

Second, the Government overstates *Kerr*’s “exemplary” record while minimizing MSgt Ehly’s own terrific (and lengthy) service. Ans. at 8. *Kerr* was an E-3. *Kerr*, 2023 CCA LEXIS 434, at \*1. While *Kerr* had good service, *id.* at \*4-5, his service was far shorter than MSgt Ehly’s. R. at 165–66 (summarizing his lengthy service); Pros. Ex. 3 at 1–21 (showing performance reports). The Government also ignores the exceptional quality of MSgt Ehly’s lengthy service, which weighs heavily in his favor. *Compare* Ans. at 6–7, with Pros. Ex. 3 at 1–21.

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<sup>2</sup> The Marine had just returned from a deployment and was trying to separate from active duty. 2023 CCA LEXIS 434, at \*2.

When reviewing the seriousness of the offense for which MSgt Ehly pled guilty, MSgt Ehly's service record, and MSgt Ehly's history as a stellar Airman and noncommissioned officer, it is clear that the sentence is inappropriately severe. Therefore, this Court should find the sentence inappropriately severe and disapprove the reduction in pay grade to E-6.

**III. Relief under Article 66(d)(2), UCMJ, is warranted for the unjustified post-trial delay in this case.**

The Government spills much ink discussing constitutional post-trial delay. Ans. at 9–14. This is irrelevant, as MSgt Ehly raises only a statutory claim for relief. *See* Br. on Behalf of Appellant at 7. MSgt Ehly is entitled to relief under Article 66(d)(2), UCMJ, and this Court should grant relief by disapproving the reduction to E-6.

*A. Article 66(d)(2), UCMJ, and Valentin-Andino changed the post-trial delay framework. This Court should revisit Gay and articulate a standard based in text, not faulty precedent.*

The Government agrees that *Valentin-Andino* “directs this Court to evaluate post-trial delay solely under its Article 66, UCMJ, authority, independent of the prior case precedent of *United States v. Tardif*.” Ans. at 14. Despite this recognition, the Government strangely argues this Court should use the *Gay* factors. Ans. at 14–15.

*Gay* is a *Tardif* post-trial delay case. *United States v. Gay*, 74 M.J. 736, 742 (A.F. Ct. Crim. App. 2015) (citing *United States v. Tardif*, 57 M.J. 219, 224 (C.A.A.F. 2002)) (“Our superior court has specifically recognized that the courts of criminal appeals have broad discretion to grant or deny relief for unreasonable or unexplained post-trial delay.”). As the Court of Appeals for the Armed Forces (CAAF) noted in *Valentin-Andino*, the plain text of Article 66(d)(2), UCMJ, not *Tardif*, informs the type and manner of relief. *United States v. Valentin-Andino*, 85 M.J. 361, 2025 CAAF LEXIS 248, at \*10 (C.A.A.F. 2025). Instead of *Gay*, this Court should use the three-part balancing test articulated in MSgt Ehly's opening brief. Br. on Behalf of Appellant at 8-9 (arguing

that this Court should balance three factors: (1) the particular offense; (2) the particular appellant; and (3) the nature and length of the delay). This approach satisfies the CAAF’s concerns in *Valentin-Andino*, conforms with the plain text of Article 66(d)(2), UCMJ, and is consistent with the approach taken by the Army Court of Criminal Appeals in a similar case. *United States v. Lanthrop*, ARMY 20230506, 2025 CCA LEXIS 63, at \*7 (A. Ct. Crim. App. Feb. 14, 2025) (balancing the circumstances of the case and the particular appellant).

*B. Under this new test, MSgt Ehly is entitled to relief.*

The first two factors (the particular offense and the particular appellant) both weigh in favor of relief. Br. on Behalf of Appellant at 5-6; *supra* Section II.

The third factor also weighs in favor of relief. The nature of the delay is unknown, and the Government offers little explanation. Ans. at 14–15. Additionally, the length of the delay was egregious. The Government concedes that the notification of right to appeal was “delayed.” Ans. at 15. But this concession understates the problem: It took the Government 377<sup>3</sup> days to send MSgt Ehly his notice of right to appeal. *Compare* R. at 182 (showing a sentencing date of September 13, 2022), *with* Notice of Right to Submit Direct Appeal, Jan. 3, 2024. Upon receiving the docketing notice in this case, the Government took an additional 113 days to complete a 183 verbatim transcript. Altogether, the Government caused 490 days of post-trial delay.

While offering little explanation for these delays, Ans. at 14–15, the Government instead blames MSgt Ehly. Ans. at 14 (“Appellant’s own actions—filing nine motions for an enlargement of time [(EOT)], delayed his post-trial process by nearly a year.”). But the Government is wrong—the delay caused by MSgt Ehly’s EOTs must fall to it, not MSgt Ehly.

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<sup>3</sup> This is calculated from the date Article 66, UCMJ was amended to allow for direct appeals and the date the Government sent MSgt Ehly his notice.

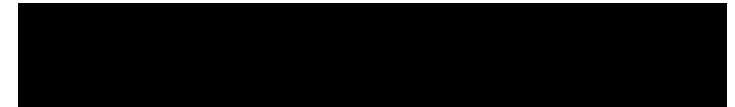
The Government is required to adequately staff the appellate defense division. *United States v. Moreno*, 63 M.J. 129, 137 (C.A.A.F. 2006) (“The Government must provide adequate staffing within the Appellate Defense Division to fulfill its responsibility under the UCMJ to provide competent and timely representation.”); *see* Article 70, UCMJ; *United States v. Toohey*, 63 M.J. 353, 360 (C.A.A.F. 2006) (“For the same reasons, we decline to hold Toohey responsible for the delays requested by appellate defense counsel to review and brief other cases.”). In a series of litigated motions this year, various appellants demanded the Government “specify how it [was] meeting its obligations” to provide adequate staffing. *See, e.g.*, Mot. for Enlargement of Time (Twelfth), *United States v. Barlow*, No. ACM 40552, 2025 CCA LEXIS 263 (A.F. Ct. Crim. App. June 12, 2025). Those demands required the Government to respond; if it did not, such failure would be considered “waiver of any claim . . . that it is providing adequate staffing.” *See, e.g.*, Mot. for Enlargement of Time (Tenth), *Barlow*, 2025 CCA LEXIS 263. The Government failed to respond each time. *See, e.g.*, United States’ Opposition, *Barlow*, No. ACM 40552, 2025 CCA LEXIS 26.

This Court should hold that the Government failed—and continues to fail—to adequately staff the appellate defense division. An exponentially increasing workload caused by statutory changes has been met with uncaring nonchalance from the Government, *see, e.g.*, *United States v. Hon*, No. ACM 40671 (A.F. Ct. Crim. App. July 30, 2025) (order granting appellant’s ninth motion for EOT) (“[The Government] maintained [its] opposition to the motion but did not specifically challenge or dispute any written or oral representation by the Defense.”), and this Court. *See, e.g.*, *United States v. Gibbs*, No. ACM 40523 (A.F. Ct. Crim. App. Nov. 22, 2024) (order denying, in part, appellant’s twelfth motion for EOT). The Government’s failure—and this Court’s inaction—

to alleviate the workload of the appellate defense division must come with consequences. And, whatever those consequences are, they should not fall to appellants like MSgt Ehly.

Each of the post-*Valentin-Andino* factors weigh heavily in favor of MSgt Ehly. But, should this Court continue to use *Gay*, each *Gay* factor also weighs in favor of relief. Br. on Behalf of Appellant at 10-12. Therefore, this Court should grant MSgt Ehly sentencing relief by disapproving the reduction in grade to E-6.

Respectfully submitted,

A solid black rectangular redaction box covering the signature of Trevor N. Ward.

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**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 14 August 2025.

Respectfully submitted,



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

<b>UNITED STATES</b>	)	<b>No. ACM 23004</b>
<i>Appellee</i>	)	
	)	
<b>v.</b>	)	
	)	<b>NOTICE OF PANEL</b>
<b>Tyler B. EHLY</b>	)	<b>CHANGE</b>
<b>Master Sergeant (E-7)</b>	)	
<b>U.S. Air Force</b>	)	
<i>Appellant</i>	)	

It is by the court on this 19<sup>th</sup> day of August, 2025,

**ORDERED:**

The record of trial in the above-styled matter is withdrawn from Panel 3 and referred to a Special Panel for appellate review.

The Special Panel in this matter shall be constituted as follows:

DOUGLAS, KRISTINE M., Colonel, Senior Appellate Military Judge  
MASON, BRIAN C., Lieutenant Colonel, Appellate Military Judge  
ORTIZ, ANTHONY D., Colonel, Appellate Military Judge

This panel letter supersedes all previous panel assignments.



FOR THE COURT



TANICA S. BAGMON  
Appellate Court Paralegal