

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES)	MOTION FOR ENLARGEMENT OF
<i>Appellee</i>)	TIME (FIRST)
)	
v.)	Before Panel No. 2
)	
Airman (E-1))	No. ACM S32750
ANDREW J. FAGERSTROM,)	
United States Air Force)	14 April 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(3) and (m)(6) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **22 May 2023**. The record of trial was docketed with this Court on 21 February 2023. From the date of docketing to the present date, 52 days have elapsed. On the date requested, 90 days will have elapsed.

On 29 November 2022, consistent with his pleas, Appellant was convicted by a military judge sitting as a special court-martial at Charleston Air Force Base, South Carolina of one charge and one specification of violation of a lawful general order in violation of Article 92, Uniform Code of Military Justice (UCMJ), and one charge with three specifications in violation of Article 112a, UCMJ, and an additional charge and specification in violation of Article 92, UCMJ. R. at 83. The military judge sentenced Appellant to be discharged from service with a bad conduct discharge, and for the Specification of Charge I, to be confined for 60 days; for Specification 1 of Charge II, to be confined for 150 days; for Specification 2 of Charge II, to be confined for 75 days; for Specification 1 of Charge III, to be confined for 60 days; and for the

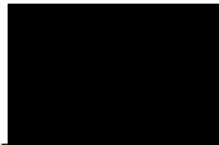
Specification of the Additional Charge, to be confined for 150 days; with all confinement running concurrently. (R. 189).

The record of trial consists of 10 prosecution exhibits, 9 defense exhibits, and 5 appellate exhibits; the transcript is 189 pages. Appellant is not currently confined and is aware of his appellate rights.

Undersigned counsel is a reservist and has not been on orders since being assigned to this case. Undersigned counsel plans to schedule Inactive Duty for Training days within the next 30 days to work on Appellant's case. Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,



JARET USAF
Appellate Defense Counsel
Air Force Appellate Defense Division



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and

served on the Appellate Government Division on 14 April 2023.

Respectfully submitted,

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JAR [REDACTED], USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

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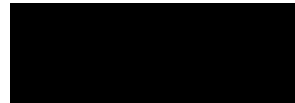
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>)	OPPOSITION TO APPELLANT'S
)	MOTION FOR ENLARGEMENT
v.)	OF TIME
)	
Airman (E-1))	ACM S32732
ANDREW J. FAGERSTROM,)	
USAF,)	
<i>Appellant.</i>)	Panel No. 2
)	

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

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

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

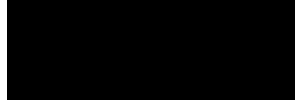


OLIVIA B. HOFF, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force

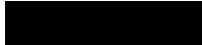


CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and the Air Force Appellate Defense Division on 14 April 2023.



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



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES)	MERITS BRIEF
<i>Appellee</i>)	
)	
v.)	Before Panel No. 2
)	
Airman Basic (E-1))	No. ACM S32750
ANDREW J. FAGERSTROM)	
United States Air Force)	Filed on: 17 May 2023
<i>Appellant</i>)	

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

Submission of Case Without Specific Assignments of Error

The undersigned appellate defense counsel attests he has, on behalf of Airman Basic Andrew J. Fagerstrom, Appellant, carefully examined the record of trial in this case. Airman Fagerstrom, does not admit that the findings and sentence are correct in law and fact, but submits the case to this Honorable Court on its merits with no specific assignments of error.¹

Respectfully submitted,



JARETT MERK, Maj, USAFR
Appellate Defense Counsel
Air Force Appellate Defense Division



¹ Amn Fagerstrom has conformed this merits brief to the format in Appendix B of this Honorable Court's Rule of Practice and Procedure. Amn Fagerstrom understands this Court will exercise its independent "awesome, plenary, and de novo power" to review the entire record of this proceeding for factual and legal sufficiency, and for sentence propriety, and to "substitute its judgment" for that of the court below, as is provided for and required by Article 66(c), UCMJ, 10 U.S.C. §866(c) (2012) [now Article 66(d), UCMJ, 10 U.S.C. §866(d) (2019)]. *United States v. Cole*, 31 M.J. 270, 272 (C.M.A. 1990); *United States v. Chin*, 75 M.J. 220 (C.A.A.F. 2016).

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 17 May 2023.

Respectfully submitted,



JARETT MERK, Maj, USAFR
Appellate Defense Counsel
Air Force Appellate Defense Division

