

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

UNITED STATES	)	No. ACM 40689
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
William J. FUNDIS.)	
Major (O-4))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 3

This case was docketed with the court on 27 September 2024. On 14 November 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 21st day of November, 2024,

ORDERED:

Appellant’s Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error not later than **25 January 2025**.

Any subsequent requests for enlargement of time will be considered individually on their merits.

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

Appellant's counsel is further advised that any future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, ordinarily will not be granted absent *exceptional circumstances*.



OLGA STANFORD, Capt, USAF
Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION
<i>Appellee,</i>	)	FOR ENLARGEMENT
	)	OF TIME (FIRST)
v.)	
	)	Before Panel No. 3
MAJOR (O-4))	
WILLIAM J. FUNDIS,	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	14 November 2024

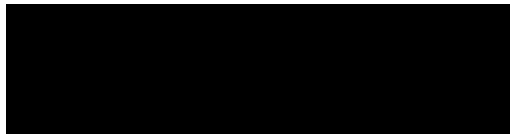
**TO THE HONORABLE, THE JUDGES OF THE UNITED STATES
AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 60 days, which will end on **25 January 2024**.

Appellant’s direct appeal was docketed with this Court on 27 September 2024. From the date of docketing to the present date, 48 days have elapsed. On the date requested, 120 days will have elapsed since docketing.

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

Respectfully submitted,



JORDAN L. GRANDE, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
Email: jordan.grande@us.af.mil

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 14 November 2024.



JORDAN L. GRANDE, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
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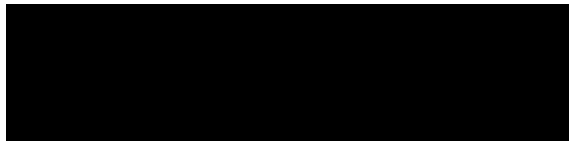
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Major (O-4)	)	ACM 40689
WILLIAM J. FUNDIS, 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.

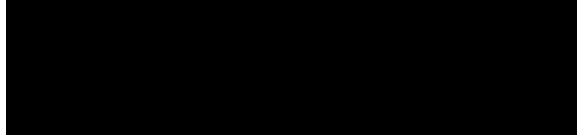
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 18 November 2024.



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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

v.

William FUNDIS
Major (O-4)

Appellant

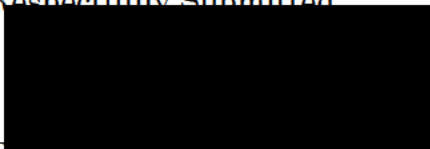
NOTICE OF REPRESENTATION
OF A.F.

No. ACM 40689

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

To the Clerk of this Court and all parties of record, the undersigned notifies the Court of her representation of named victim A.F. in *United States v. Fundis*. Ms. Devon Wells is detailed Appellate Victim's Counsel for A.F. Pursuant to Rule 12.2, Ms. Devon Wells notified this Court. A substantive Notice of Representation is attached hereto as an attachment.

Respectfully Submitted,



D [Redacted], DAF CIVILIAN
Appellate Victims' Counsel for A.F.
HAF/JAJS
Department of the Air Force
240-636-2001
devon.wells@us.af.mil
New York 4453205
CAAF Bar Number 37640


CERTIFICATE OF FILING AND SERVICE

I certify that on 5 December 2024, the foregoing was electronically filed with the Court and served on all relevant parties via email at the following addresses:

AF.JAJG.AFLOA.Filing.Workflow@us.af.mil

AF.JAJA.AFLOA.Filing.Workflow@us.af.mil

af.ja.jajm.appellate.records@us.af.mil


D AF CIVILIAN
Appellate Victims' Counsel for A.F.
HAF/JAJS
Department of the Air Force
240-636-2001
devon.wells@us.af.mil
New York 4453205
CAAF Bar Number 37640



DEPARTMENT OF THE AIR FORCE
OFFICE OF THE JUDGE ADVOCATE GENERAL
VICTIMS' COUNSEL DIVISION

29 November 2024

MEMORANDUM FOR AFCCA

FROM: AF/JAJS (Ms. Devon A. R. Wells)

SUBJECT: Appellate Victims' Counsel (VC) Notice of Representation – Ms. A.F.

1. This notice is to inform you that I represent and have an attorney-client relationship with A.F., a named victim in the case of *U.S. v. Fundis*. I am representing Ms. A.F. to ensure her rights are accorded throughout the appellate process, to file pleadings as appropriate, and to assess the merits of filing a brief as *amicus curiae*.
2. If you have any questions, please contact Ms. Devon Wells at commercial 240-636-2001 or at devon.wells@us.af.mil



DEVON A. R. WELLS, GS-14, USAF
Victims' Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

v.

William FUNDIS
Major (O-4)

Appellant

NOTICE OF APPEARANCE OF
COUNSEL FOR A.F.

No. ACM 40689

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

To the Clerk of this Court and all parties of record, the undersigned hereby enters her appearance for *United States v. Fundis*. Ms. Devon Wells is detailed Appellate Victim's Counsel for A.F.. Pursuant to Rule 12.2, Ms. Devon Wells enters her appearance as Appellate Victims Counsel. A Notice of Representation is attached hereto as an attachment.

Respectfully Submitted



DEVON A. R. WELLS, GS-14, DAF CIVILIAN
Appellate Victims' Counsel for A.F.
HAF/JAJS
Department of the Air Force
240-636-2001
devon.wells@us.af.mil
New York 4453205
CAAF Bar Number 37640

CERTIFICATE OF FILING AND SERVICE

I certify that on 29 November 2024, the foregoing was electronically filed with the Court and served on all relevant parties via email at the following addresses:

AF.JAJG.AFLOA.Filing.Workflow@us.af.mil

AF.JAJA.AFLOA.Filing.Workflow@us.af.mil

af.ja.jajm.appellate.records@us.af.mil



DEVON A. R. WELLS, GS-14, DAF CIVILIAN
Appellate Victims' Counsel for A.F.
HAF/JAJS
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CAAF Bar Number 37640



DEPARTMENT OF THE AIR FORCE
OFFICE OF THE JUDGE ADVOCATE GENERAL
VICTIMS' COUNSEL DIVISION

29 November 2024

MEMORANDUM FOR AFCCA

FROM: AF/JAJS (Ms. Devon A. R. Wells)

SUBJECT: Appellate Victims' Counsel (VC) Notice of Representation – Ms. A.F.

1. This notice is to inform you that I represent and have an attorney-client relationship with A.F., a named victim in the case of *U.S. v. Fundis*. I am representing Ms. A.F. to ensure her rights are accorded throughout the appellate process, to file pleadings as appropriate, and to assess the merits of filing a brief as *amicus curiae*.
2. If you have any questions, please contact Ms. Devon Wells at commercial 240-636-2001 or at devon.wells@us.af.mil



DEVON A. R. WELLS, GS-14, USAF
Victims' Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,
Appellee,

v.

MAJOR (O-4)
WILLIAM J. FUNDIS,
United States Air Force,
Appellant.

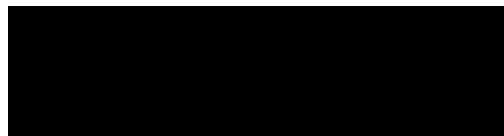
) **OPPOSITION TO NOTICE OF**
) **APPEARANCE OF VICTIM’S**
) **COUNSEL FOR A.F., A NON-**
) **PARTY**
)
) Before Panel No. 3
)
) No. ACM 40689
)
) 2 December 2024

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

Pursuant to Rule 23.3(c) of this Honorable Court’s Rules of Practice and Procedure, Appellant opposes Victim’s Counsel’s “Notice of Appearance” filed on 2 December 2024, but dated 29 November 2024. A.F. is not a party to this litigation. There is no current basis for A.F. to intervene in this case and this Notice is premature.

WHEREFORE, Appellant respectfully requests that this Honorable Court reject Victim’s Counsel’s “Notice of Appearance.”

Respectfully submitted,



JORDAN L. GRANDE, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
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Office: (240) 612-4770
Email: jordan.grande@us.af.mil

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 2 December 2024.



JORDAN L. GRANDE, Capt, USAF
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Email: jordan.grande@us.af.mil

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	APPELLANT’S MOTION
	)	FOR ENLARGEMENT
	)	OF TIME (SECOND)
v.)	
	)	Before Panel No. 3
MAJOR (O-4))	
WILLIAM J. FUNDIS,	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	15 January 2025

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

Pursuant to Rule 23.3(m)(1) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **24 February 2025**.

Appellant’s case was docketed with this Court on 27 September 2024. From the date of docketing to the present date, 110 days have elapsed. On the date requested, 150 days will have elapsed since docketing.

From 26-27 June 2024, Appellant was tried by a General Court-Martial sitting as a Military Judge alone at Scott Air Force Base, Illinois. R. at 1, 24, 374, 377. Appellant was convicted consistent with his pleas and pursuant to a plea agreement of One Charge with Two Specifications of assault consummated by a battery, in violation of Article 128, Uniform Code of Military Justice (UCMJ), and Two Charges with Three Specifications and Five Specifications¹, respectively, of domestic violence, in violation of Article 128b, UCMJ. R. at 27-28, 142-143; App. Ex. XIV. Pursuant to the plea agreement, One Charge with One Specification of obstruction of justice, in violation of Article 131b was withdrawn and dismissed with prejudice. R. at 133-134. The

¹ There are two named victims in this case: AF and SF.

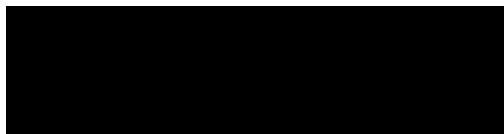
military judge sentenced Appellant to be reprimanded, to be confined for a total of forty months², and to be dismissed from the service. R. at 375-376.

The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, 18 Defense Exhibits, and 18 Appellate Exhibits. The transcript is 377 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,



JORDAN L. GRANDE, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
Email: jordan.grande@us.af.mil

² Appellant was credited with 197 days of pretrial confinement credit. R. at 375-376.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 15 January 2025.



JORDAN L. GRANDE, Capt, USAF
Appellate Defense Counsel
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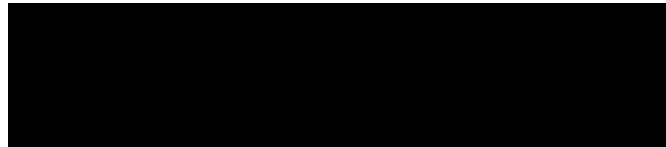
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Major (O-4)	)	ACM 40689
WILLIAM J. FUNDIS, 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.

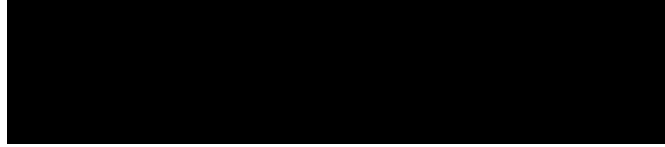
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 16 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

UNITED STATES, <i>Appellee,</i>	)	APPELLANT’S MOTION
	)	FOR ENLARGEMENT
	)	OF TIME (THIRD)
v.)	
	)	Before Panel No. 3
Major (O-4))	
WILLIAM J. FUNDIS,	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	18 February 2025

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

Pursuant to Rule 23.3(m)(1) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **26 March 2025**.

Appellant’s case was docketed with this Court on 27 September 2024. From the date of docketing to the present date, 145 days have elapsed.¹ On the date requested, 180 days will have elapsed since docketing.

From 26-27 June 2024, Appellant was tried by a General Court-Martial composed of a military judge alone at Scott Air Force Base, Illinois. R. at 1, 24, 374, 377. Appellant was

¹ The filing of this Motion is timely in accordance with Rule 23.3(m)(1) of this Court’s Rules of Practice and Procedure. In accordance with JT. CT. CRIM. APP. R. 15 and Rule 15 of this Court’s Rules of Practice and Procedure, the seventh calendar day before this AOE is due is calculated as 18 February 2025 because 17 February 2025 was a federal holiday on which this Court was closed. This Court recently clarified its calculation of time in accordance with JT. CT. CRIM. APP. R. 15 in its 12 February 2025 Order in *United States v. Vongphachanh*, No. ACM 40741. In accordance with JT. CT. CRIM. APP. R. 15, when the last day of a period of time to be computed ends on “a Saturday, Sunday, holiday, or day on which the Court is closed,” that period of time, “runs until the end of the next day that is not a Saturday, Sunday, holiday, or day on which the Court is closed.” The last day of the period of time to be computed in this case (the seventh day before this AOE is due) was a federal holiday, and therefore, in accordance with JT. CT. CRIM. APP. R. 15 and Rule 15 of this Court’s Rules of Practice and Procedure, the end of that period runs until the next day this Court is not closed, which is 18 February 2025.

convicted consistent with his pleas and pursuant to a plea agreement of One Charge with Two Specifications of assault consummated by a battery, in violation of Article 128, Uniform Code of Military Justice (UCMJ), and Two Charges with Three Specifications and Five Specifications², respectively, of domestic violence, in violation of Article 128b, UCMJ. R. at 27-28, 142-143; App. Ex. XIV. Pursuant to the plea agreement, One Charge with One Specification of obstruction of justice, in violation of Article 131b was withdrawn and dismissed with prejudice. R. at 133-134. The military judge sentenced Appellant to be reprimanded, to be confined for a total of forty months,³ and to be dismissed from the service. R. at 375-376.

The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

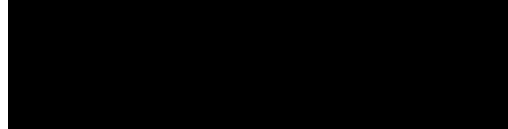
Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

² There are two named victims in this case: AF and SF.

³ Appellant was credited with 197 days of pretrial confinement credit. R. at 375-376.

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

Respectfully submitted,



JORDAN L. GRANDE, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
Email: jordan.grande@us.af.mil

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims Counsel as *amicus curiae counsel* on 18 February 2025.



JORDAN L. GRANDE, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
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Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
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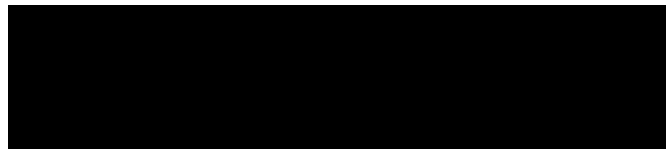
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Major (O-4)	)	ACM 40689
WILLIAM J. FUNDIS, 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 20 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

UNITED STATES, <i>Appellee,</i>	)	APPELLANT’S MOTION
	)	FOR ENLARGEMENT
	)	OF TIME (FOURTH)
v.)	
	)	Before Panel No. 3
Major (O-4))	
WILLIAM J. FUNDIS,	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	17 March 2025

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

Pursuant to Rule 23.3(m)(1), (4), and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **25 April 2025**.

Appellant’s case was docketed with this Court on 27 September 2024. From the date of docketing to the present date, 171 days have elapsed. On the date requested, 210 days will have elapsed since docketing.

From 26-27 June 2024, Appellant was tried by a General Court-Martial composed of a military judge alone at Scott Air Force Base, Illinois. R. at 1, 24, 374, 377. Appellant was convicted consistent with his pleas and pursuant to a plea agreement of One Charge with Two Specifications of assault consummated by a battery, in violation of Article 128, Uniform Code of Military Justice (UCMJ), and Two Charges with Three Specifications and Five Specifications,¹ respectively, of domestic violence, in violation of Article 128b, UCMJ. R. at 27-28, 142-143; App. Ex. XIV. Pursuant to the plea agreement, One Charge with One Specification of obstruction of justice, in violation of Article 131b was withdrawn and dismissed with prejudice. R. at 133-

¹ There are two named victims in this case: AF and SF.

134. The military judge sentenced Appellant to be reprimanded, to be confined for a total of forty months,² and to be dismissed from the service. R. at 375-376.

The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Capt Grande is currently assigned 25 cases; 22 cases are pending before this Court (18 cases are pending AOE). Six cases have priority over the present case:

1. *United States v. Ryder*, ACM No. 40605- This case is pending the Government's Answer, due on 25 March 2025. Undersigned counsel will draft a reply brief, if any, which will be due by 1 April (at the latest).
2. *United States v. Ledee-Nicholls*, ACM No. 40667 - The record of trial consists of one e-ROT with six volumes, three prosecution exhibits, 20 Defense Exhibits, and four Appellate Exhibits; the transcript is 122 pages long. Undersigned counsel has completed her review of the record in this case and has begun drafting the AOE.
3. *United States v. Boggs*, ACM No. 40678 – The record of trial consists of nine Prosecution Exhibits, one Defense Exhibit, and twenty-six Appellate Exhibits; the transcript is 161 pages long. Undersigned counsel has not yet completed her review of the record of trial in this case.
4. *United States v. Hedgepath*, ACM No. 40681– The record of trial consists of one ROT with four volumes, three Prosecution Exhibits, one Court Exhibit, three Defense

² Appellant was credited with 197 days of pretrial confinement credit. R. at 375-376.

Exhibits, and five Appellate Exhibits; the transcript is 115 pages long. Undersigned counsel has not yet completed her review of the record of trial in this case.

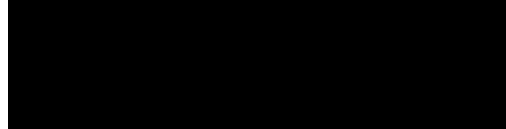
5. *United States v. Rockrich*, ACM No. 40666 – The record of trial consists of two Prosecution Exhibits, one Defense Exhibit, and sixteen Appellate Exhibits; the transcript is 96 pages long. Appellant is currently confined. Undersigned counsel has completed her review of the transcript for this case; but not the entire record.
6. *United States v. Hilson*, ACM No. 24063 – The record of trial consists of one E-ROT with two volumes. It contains two Prosecution Exhibits, one Court Exhibit, eight Defense Exhibits, and four Appellate Exhibits. The transcript is 156 pages long. Undersigned counsel has not yet completed her review of the record in this case.

In addition to the aforementioned cases, Captain Grande is trial defense counsel for the general court-martial *United States v. Fewell*, docketed for the week of 7 April 2025 at Luke Air Force Base, Arizona.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,



JORDAN L. GRANDE, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
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Email: jordan.grande@us.af.mil

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims Counsel as *amicus curiae counsel* on 17 March 2025.



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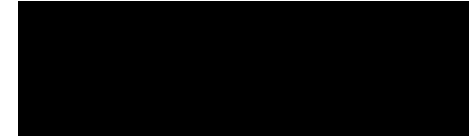
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
	)	Before Panel No. 3
Major (O-4))	
WILLIAM J. FUNDIS,	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>)	
	)	18 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.

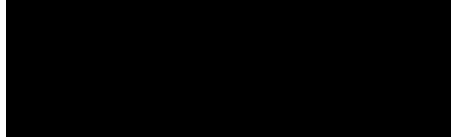
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 18 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

UNITED STATES,	)	APPELLANT’S MOTION
<i>Appellee,</i>	)	FOR ENLARGEMENT
	)	OF TIME (FIFTH)
v.)	
	)	Before Panel No. 3
Major (O-4))	
WILLIAM J. FUNDIS,	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	16 April 2025

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

Pursuant to Rule 23.3(m)(1), (4), and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **25 May 2025**.

Appellant’s case was docketed with this Court on 27 September 2024. From the date of docketing to the present date, 201 days have elapsed. On the date requested, 240 days will have elapsed since docketing.

From 26-27 June 2024, Appellant was tried by a General Court-Martial composed of a military judge alone at Scott Air Force Base, Illinois. R. at 1, 24, 374, 377. Appellant was convicted consistent with his pleas and pursuant to a plea agreement of One Charge with Two Specifications of assault consummated by a battery, in violation of Article 128, Uniform Code of Military Justice (UCMJ), and Two Charges with Three Specifications and Five Specifications,¹ respectively, of domestic violence, in violation of Article 128b, UCMJ. R. at 27-28, 142-143; App. Ex. XIV. Pursuant to the plea agreement, One Charge with One Specification of obstruction of justice, in violation of Article 131b was withdrawn and dismissed with prejudice. R. at 133-

¹ There are two named victims in this case: AF and SF.

134. The military judge sentenced Appellant to be reprimanded, to be confined for a total of forty months,² and to be dismissed from the service. R. at 375-376.

The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Maj Grande is currently assigned 27 cases; 22 cases are pending before this Court (18 cases are pending AOE). Six cases have priority over the present case:

1. *United States v. Gale*, ACM No. 202501 – Maj Grande is preparing for oral argument scheduled for 24 April 2025.
2. *United States v. Serjak*, USCA Dkt. No. 25-0120/AF; Crim.App. No. 40392 – The record of trial consists of twelve volumes, fourteen Prosecution Exhibits, ten Defense Exhibits, three Court Exhibits, and eighty-four Appellate Exhibits. The Government’s brief in support of this TJAG-certified issue is due to the CAAF by 24 April 2025, and undersigned counsel will then draft the Appellee’s Answer.
3. *United States v. Ledee-Nicholls*, ACM No. 40667 - The record of trial consists of one e-ROT with six volumes, three prosecution exhibits, 20 Defense Exhibits, and four Appellate Exhibits; the transcript is 122 pages long. Undersigned counsel is currently drafting the AOE.
4. *United States v. Boggs*, ACM No. 40678 – The record of trial consists of nine Prosecution Exhibits, one Defense Exhibit, and twenty-six Appellate Exhibits; the

² Appellant was credited with 197 days of pretrial confinement credit. R. at 375-376.

transcript is 161 pages long. Undersigned counsel has not yet completed her review of the record of trial in this case.

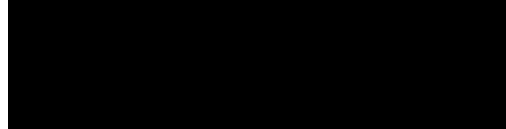
5. *United States v. Hedgepath*, ACM No. 40681– The record of trial consists of one ROT with four volumes, three Prosecution Exhibits, one Court Exhibit, three Defense Exhibits, and five Appellate Exhibits; the transcript is 115 pages long. Undersigned counsel has not yet completed her review of the record of trial in this case.
6. *United States v. Rockrich*, ACM No. 40666 – The record of trial consists of two Prosecution Exhibits, one Defense Exhibit, and sixteen Appellate Exhibits; the transcript is 96 pages long. Appellant is currently confined. Undersigned counsel has completed her review of the transcript for this case; but not the entire record.
7. *United States v. Hilson*, ACM No. 24063 – The record of trial consists of one E-ROT with two volumes. It contains two Prosecution Exhibits, one Court Exhibit, eight Defense Exhibits, and four Appellate Exhibits. The transcript is 156 pages long. Undersigned counsel has not yet completed her review of the record in this case.

In addition to the aforementioned cases, Maj Grande qualified for and is running the Boston Marathon on 21 April 2025. She is taking three days of leave to travel and run the race.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant’s case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant’s case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel’s progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,



JORDAN L. GRANDE, Maj, USAF
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Air Force Appellate Defense Division
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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims Counsel as *amicus curiae counsel* on 16 April 2025.



JORDAN L. GRANDE, Maj, USAF
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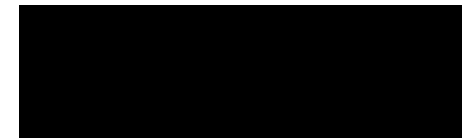
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>-Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
Major (O-4)	)	Before Panel No. 3
WILLIAM J. FUNDIS,	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	17 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 general opposition to Appellant's Motion for Enlargement of Time, to file an Assignment of Error in this case.

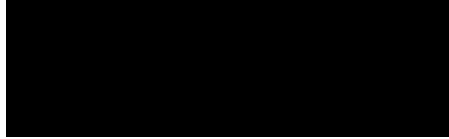
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 17 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**

UNITED STATES <i>Appellee</i>	)	No. ACM 40689
)	
)	
v.)	
	)	NOTICE OF PANEL CHANGE
William J. FUNDIS Major (O-4) U.S. Air Force <i>Appellant</i>)	
)	

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

ORDERED:

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

This panel letter supersedes all previous panel assignments.



FOR THE COURT



Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	APPELLANT’S MOTION
	)	FOR ENLARGEMENT
	)	OF TIME (SIXTH)
v.)	
	)	Before Panel No. 1
Major (O-4))	
WILLIAM J. FUNDIS,	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	16 May 2025

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

Pursuant to Rule 23.3(m)(1), (4), and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **24 June 2025**.

Appellant’s case was docketed with this Court on 27 September 2024. From the date of docketing to the present date, 231 days have elapsed. On the date requested, 270 days will have elapsed since docketing.

From 26-27 June 2024, Appellant was tried by a General Court-Martial composed of a military judge alone at Scott Air Force Base, Illinois. R. at 1, 24, 374, 377. Appellant was convicted consistent with his pleas and pursuant to a plea agreement of One Charge with Two Specifications of assault consummated by a battery, in violation of Article 128, Uniform Code of Military Justice (UCMJ), and Two Charges with Three Specifications and Five Specifications,¹ respectively, of domestic violence, in violation of Article 128b, UCMJ. R. at 27-28, 142-143; App. Ex. XIV. Pursuant to the plea agreement, One Charge with One Specification of obstruction of justice, in violation of Article 131b was withdrawn and dismissed with prejudice. R. at 133-

¹ There are two named victims in this case: AF and SF.

134. The military judge sentenced Appellant to be reprimanded, to be confined for a total of forty months,² and to be dismissed from the service. R. at 375-376.

The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Maj Grande is currently assigned 27 cases; 22 cases are pending before this Court (18 cases are pending AOE). Six cases have priority over the present case:

1. *United States v. Serjak*, USCA Dkt. No. 25-0120/AF; Crim.App. No. 40392 - The record of trial consists of twelve volumes, fourteen Prosecution Exhibits, ten Defense Exhibits, three Court Exhibits, and eighty-four Appellate Exhibits. Undersigned counsel traveled to Military Correctional Facility Miramar for a continued confinement hearing on 11-12 May 2025 and, pursuant to a CAAF order, is currently drafting a Reply to the Government's Answer to the CAAF's Show Cause Order. Additionally, undersigned counsel is drafting the Appellee's Answer to the Government's Brief on the certified issue.
2. *United States v. Ledee-Nicholls*, ACM No. 40667 - The record of trial consists of one e-ROT with six volumes, three Prosecution Exhibits, 20 Defense Exhibits, and four Appellate Exhibits; the transcript is 122 pages long. Appellant is submitting a Motion to Withdraw from Appellate Review.

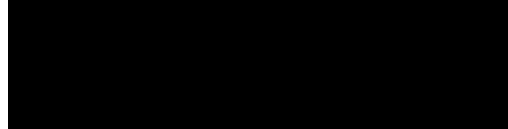
² Appellant was credited with 197 days of pretrial confinement credit. R. at 375-376.

3. *United States v. Boggs*, ACM No. 40678 – The record of trial consists of nine Prosecution Exhibits, one Defense Exhibit, and twenty-six Appellate Exhibits; the transcript is 161 pages long. Undersigned counsel is currently reviewing the record of trial in this case.
4. *United States v. Hedgepath*, ACM No. 40681– The record of trial consists of one ROT with four volumes, three Prosecution Exhibits, one Court Exhibit, three Defense Exhibits, and five Appellate Exhibits; the transcript is 115 pages long. Undersigned counsel has not yet completed her review of the record of trial in this case.
5. *United States v. Rockrich*, ACM No. 40666 – The record of trial consists of two Prosecution Exhibits, one Defense Exhibit, and sixteen Appellate Exhibits; the transcript is 96 pages long. Appellant is currently confined. Undersigned counsel has completed her review of the transcript for this case; but not the entire record.
6. *United States v. Hilson*, ACM No. 24063 – The record of trial consists of one E-ROT with two volumes. It contains two Prosecution Exhibits, one Court Exhibit, eight Defense Exhibits, and four Appellate Exhibits. The transcript is 156 pages long. Undersigned counsel has not yet completed her review of the record in this case.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant’s case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant’s case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel’s progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,



JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
Email: jordan.grande@us.af.mil

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims Counsel as *amicus curiae counsel* on 16 May 2025.



JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
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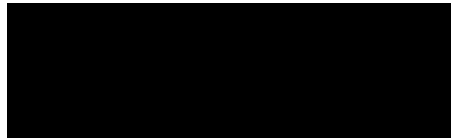
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
	)	OPPOSITION TO APPELLANT'S
<i>Appellee,</i>	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
	)	Before Panel No. 1
Major (O-4))	
WILLIAM J. FUNDIS	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	20 May 2025

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its general opposition to Appellant's Motion for Enlargement of Time to file 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 20 May 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

UNITED STATES, <i>Appellee,</i>	)	APPELLANT’S MOTION
	)	FOR ENLARGEMENT
	)	OF TIME (SEVENTH)
v.)	
	)	Before Panel No. 1
Major (O-4))	
WILLIAM J. FUNDIS,	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	16 June 2025

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

Pursuant to Rule 23.3(m)(1), (4), and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **24 July 2025**.

Appellant’s case was docketed with this Court on 27 September 2024. From the date of docketing to the present date, 262 days have elapsed. On the date requested, 300 days will have elapsed since docketing.

From 26-27 June 2024, Appellant was tried by a General Court-Martial composed of a military judge alone at Scott Air Force Base, Illinois. R. at 1, 24, 374, 377. Appellant was convicted consistent with his pleas and pursuant to a plea agreement of One Charge with Two Specifications of assault consummated by a battery, in violation of Article 128, Uniform Code of Military Justice (UCMJ), and Two Charges with Three Specifications and Five Specifications,¹ respectively, of domestic violence, in violation of Article 128b, UCMJ. R. at 27-28, 142-143; App. Ex. XIV. Pursuant to the plea agreement, One Charge with One Specification of obstruction of justice, in violation of Article 131b was withdrawn and dismissed with prejudice. R. at 133-

¹ There are two named victims in this case: AF and SF.

134. The military judge sentenced Appellant to be reprimanded, to be confined for a total of forty months,² and to be dismissed from the service. R. at 375-376.

The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Maj Grande is currently assigned 30 cases; 26 cases are pending before this Court (22 cases are pending AOE). Four cases have priority over the present case:

1. *United States v. Ingram* - No. ACM S32781– The record of trials is three volumes consisting of two Prosecution Exhibits and four Appellate Exhibits. The transcript is 86 pages. On 6 June 2025, this Court ordered briefs on a specified issue, due not later than 20 June 2025. Undersigned counsel’s brief is drafted and is undergoing peer and leadership review.
2. *United States v. Hedgepeth*, ACM No. 40681– The record of trial consists of one ROT with four volumes, three Prosecution Exhibits, one Court Exhibit, three Defense Exhibits, and five Appellate Exhibits; the transcript is 115 pages long. Undersigned counsel is currently drafting this brief, due no later than 14 July 2025. Undersigned counsel does not anticipate asking for another EOT in this case.
3. *United States v. Rockrich*, ACM No. 40666 – The record of trial consists of two Prosecution Exhibits, one Defense Exhibit, and sixteen Appellate Exhibits; the transcript is 96 pages long. Appellant is currently confined. Undersigned counsel has

² Appellant was credited with 197 days of pretrial confinement credit. R. at 375-376.

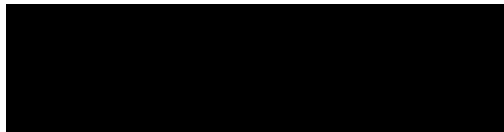
completed her review of the record in this case and will begin drafting the brief after completion of *United States v. Hedgepeth*.

4. *United States v. Hilson*, ACM No. 24063 – The record of trial consists of one E-ROT with two volumes. It contains two Prosecution Exhibits, one Court Exhibit, eight Defense Exhibits, and four Appellate Exhibits. The transcript is 156 pages long. Undersigned counsel has not completed her review of the record in this case.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant’s case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant’s case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel’s progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,



JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel
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Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
Email: jordan.grande@us.af.mil

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims Counsel as *amicus curiae counsel* on 16 June 2025.



JORDAN L. GRANDE, Maj, USAF
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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
)	
v.	)	Before Panel No. 1
)	
Major (O-4)	)	No. ACM 40689
WILLIAM J. FUNDIS,)	
United States Air Force,	)	18 June 2025
<i>Appellant.</i>)	

**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 nearly year long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed almost two thirds of the 18 month standard for this Court to issue a decision, which only leaves about 8 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not completed review of the record of trial at this late stage of the appellate process.

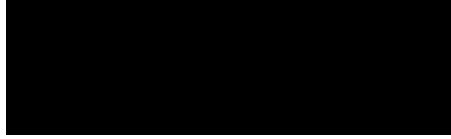
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 18 June 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

UNITED STATES,
Appellee

v.

Major (O-4)
WILLIAM J. FUNDIS,
United States Air Force,
Appellant

MOTION FOR LEAVE TO REPLY TO
APPELLANT'S RESPONSE TO MOTION
FOR LEAVE TO OBJECT TO
ENLARGEMENT OF TIME ON BEHALF
OF VICTIM A.F and MOTION FOR
APPROPRIATE RELIEF

No. ACM 40689

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

“[I]t is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit or action at law, whenever that right is invaded.” *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 163 (1803) (internal quotations and citations omitted).

A.F. has standing to object to violations of her statutory rights. It is unclear what is meant by “standing” in Appellant’s assertion that A.F. does not possess it; but Appellant asserts that A.F. has no standing to object to a violation of A.F.’s statutory rights in the exact forum that could perpetuate a violation or afford A.F. her rights. In other words, this Court could provide a remedy. A.F. asserts the notion of Article III standing as a necessity to ensure separation of powers is inapplicable to military justice as courts-martial are Article I tribunals where a case and controversy arises when statutory provisions allow; however, A.F. acknowledges C.A.A.F.’s declaration that “[C.A.A.F.] follows the principles of standing that apply to Article III courts.” *B.M. v. United States*, 84 M.J. 314, 317

(C.A.A.F. 2024) (internal citation omitted). C.A.A.F. goes on to state in *B.M.*, “[i]n accordance with these principles, this Court [C.A.A.F.] only addresses claims raised by parties who can show an injury in fact, causation, and redressability.” *Id.* (internal citations and quotations omitted). C.A.A.F. acknowledged in *B.M.* that *B.M.* had a statutory right to proceedings free from unreasonable delay, but she could not challenge an abatement order because she did not have a “a judicially cognizable interest in the ultimate question of whether the government will or will not prosecute the accused.” *Id.* at 319 (internal quotations omitted). *A.F.* is not seeking to effectuate a prosecution, she is objecting to granting an ***eighth*** enlargement of time that delays the appellate proceedings.

In 2004, when Senator Diane Feinstein described the identical right to Article 6b(a)(7)’s right to proceedings free from unreasonable delay contained in the Crime Victims’ Right Act¹ codified at 18 U.S.C. § 3771 (2004) she stated:

I would like to move on to section 2, (a)(7), which provides crime victims with a right to proceedings free from unreasonable delay. This provision does not curtail the Government’s need for reasonable time to organize and prosecute its case. Nor is the provision intended to infringe on the defendant’s due process right to prepare a defense. Too often, however, **delays in criminal proceedings occur for the mere convenience of the parties** and those delays reach beyond the time needed for defendant’s due process or the Government’s need to prepare. The result of such delays is that **victims cannot begin to put the crime behind them and they continue to be**

¹ Congress adopted the Crime Victims’ Rights Act into the UCMJ as Article 6b, titling the section of the National Defense Authorization Act codifying Article 6b as “Extension of crime victims’ rights to victims of offenses under the Uniform Code of Military Justice.” National Defense Authorization Act of Fiscal Year 2014, 113 P.L. 66, § 1701 (2013).

victimized. It is not right to hold crime victims under the stress and pressure of future court proceedings merely because it is convenient for the parties or the court.

150 Cong. Rec. S4268-9 (daily ed. April 22, 2004) (Statement of Sen. Diane Feinstein) (emphasis added).

If the Air Force Court of Criminal Appeals will not consider A.F.'s objection and infringes on her unequivocal right to proceedings free from unreasonable delay without accounting for A.F.'s statutory rights, where does A.F. seek a remedy? Does A.F. ask The Judge Advocate General to require Air Force personnel under her legal supervision comply with Article 6b? Does A.F. file a lawsuit in a Federal District Court asking for remedies in equity to force the Air Force to follow the law? As Justice Marshall astutely proclaimed, all rights have a remedy; otherwise they are meaningless. *Marbury*, 5 U.S. at 163.

If victims of crime whose offenders are court-martialed in the military justice system established by Congress, cannot seek remedy for the rights granted to those victims by Congress in statute, applicable to the military justice tribunals established by Congress, then those are rights without apparent remedy. Congress affirmatively granted victims' rights in the military justice system with the codification of Article 6b into the Uniform Code of Military Justice (UCMJ). Statutory provision of rights inserts victims into the military justice process. As to Appellant's calling A.F. a "nonparty," the C.A.A.F. decided *LRM v. Kastenber* before Article 6b existed as law, and much of its analysis of standing in *LRM* has been superseded by statute. 72 M.J. 364, 368 (C.A.A.F. 2016); Article 6b, UCMJ

(2024). Nevertheless, in her dissent Judge Maragaret Ryan found The Judge Advocate General's certification of the case perplexing because of "[t]he absence of any actual or imminent injury to LRM." *Id.* at 373 (Ryan, M., dissenting). In **this case**, A.F.'s injury is imminent, and would occur with a grant of an eighth enlargement of time. Moreover, *LRM* was indeed a "nonparty;" but she also was not a statutory victim like A.F. – as the statute did not exist. Article 6b(b), UCMJ (2024).

C.A.A.F. stated when addressing whether it is appropriate for a trial counsel to assist a victim in giving a victim impact statement,

More recently, Congress has changed the traditional paradigm by providing the victims of the accused's crimes with limited authority to participate in the proceedings. See, e.g., Crime Victims' Rights Act, 18 U.S.C. § 3771 (2018) (establishing the rights of crime victims in federal courts); Article 6b, UCMJ, 10 U.S.C. § 806b (2018) (establishing the rights of crime victims in the military justice system). In the military justice system, victims of certain sex-related offenses and certain domestic violence offenses not only have limited rights to participate in the proceedings but may also be represented by a special victims' counsel at government expense. Special victims counsel represent the victim's interests instead of the government's.

United States v. Harrington, 83 M.J. 408, 418-19 (C.A.A.F. 2023). A.F. has a limited right to participate and to object to unreasonable delay. Article 6b(a)(7), UCMJ (2004).

As for Appellant's argument that he has a statutory right to effective appellate counsel under Article 70, A.F. also has a statutory right to proceedings free from unreasonable delay under Article 6b; and those rights need to be balanced

and addressed in a fair way as A.F. is the participant with the affirmative right to be treated with fairness.² Article 6b(a)(9), UCMJ (2024).

Furthermore, it is unclear whether there is a claim by Appellant to a Constitutional due process right to appellate counsel under the Fifth Amendment or a Sixth Amendment right to counsel. A.F. concedes that the Appellant has an appeal of right under Article 66, UCMJ. “An 'appeal as of right' is one over which the court 'has no discretion to deny review.' By contrast, 'discretionary review' is review 'that is not a matter of right' and instead requires 'permission.’” *Santos-Zacaria v. Garland*, 598 U.S. 411, 424 (2023) (internal citations omitted). And because it is an "appeal of right" *if* the Fifth and Sixth Amendment constitutional right to counsel applies exactly as it does to civilian defendants³, then Appellant is

² In the same Senate speech where Senator Feinstein discussed the right to proceedings free from unreasonable delay, Senator Jon Kyl discussed the right to fairness,

One of these rights is the right to be treated with fairness. Of course, fairness includes the notion of due process. Too often victims of crime experience a secondary victimization at the hands of the criminal justice system. This provision is intended to direct Government agencies and employees, whether they are in executive or judiciary branches, to treat victims of crime with the respect they deserve.

150 Cong. Rec. S4269 (daily ed. April 22, 2004) (Statement of Sen. Jon Kyl).

³ As the Supreme Court clearly stated in its footnote in *Davis v. United States*

We have never had occasion to consider whether the Fifth Amendment privilege against self-incrimination, or the attendant right to counsel during custodial interrogation, applies of its own force to the military, and we need not do so here. The President, exercising his authority to prescribe procedures for military criminal proceedings, see Art. 36(a), UCMJ, 10 U.S.C. § 836(a), has decreed that statements obtained in violation of the Self-Incrimination Clause are generally not admissible at trials by court-martial. Mil. Rules Evid. 304(a) and (c)(3). Because the Court of Military Appeals has held that our cases construing the Fifth Amendment right to counsel apply to military interrogations and control the admissibility of evidence at trials by court-martial, see, e. g., *United States v. McLaren*, 38 M.J. 112, 115 (1993); *United States v. Applewhite*, 23 M.J. 196, 198 (1987), and the parties do not contest this

“ . . . pursuing [an] appeal[] as of right [and has] a **constitutional right to a brief** filed on [his] behalf by an attorney.” *Austin v. United States*, 513 U.S. 5, 8 (1994) (citing *Anders v. California*, 386 U.S. 738, 744 (1967)). That right is not an unlimited right to counsel, as the Supreme Court noted, but **the limited right to a brief**. Importantly, “[. . .] that right [to filing a brief] does not extend to forums for discretionary review.” *Id.* (citing *Ross v. Moffitt*, 417 U.S. 600, 616-17 (1974)). What this means as to Appellant’s counsel’s workload, and the consideration of her workload vis-à-vis A.F.’s statutory rights, is what discretionary appeals – appeals under Article 67 and 28 U.S.C. § 1259 – are being prioritized over appeals of right to the detriment of A.F.?

To accord A.F. her right to proceedings free from unreasonable delay and her right to be treated with fairness, A.F. respectfully reasserts her motion for leave to object to the Appellant’s Motion and moves this Court to order Appellant to file his Assignments of Error without delay.

point, we proceed on the assumption that our precedents apply to courts-martial just as they apply to state and federal criminal prosecutions.
512 U.S. 452, 457 (1994) (footnote).

RESPECTFULLY SUBMITTED this 17th day of July, 2025.



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CERTIFICATE OF FILING AND SERVICE

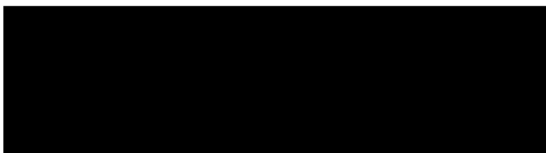
I certify that on July 17, 2025, the foregoing was electronically filed with the
Court and served on the following addresses:

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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES’ OPPOSITION
<i>Appellee,</i>	)	TO VICTIM’S MOTION FOR
	)	LEAVE TO FILE OPPOSITION
	)	TO APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME
)	
v.	)	Before Panel No. 1
)	
Major (O-4)	)	No. ACM 40689
WILLIAM J. FUNDIS)	
United States Air Force	)	18 July 2025
<i>Appellant.</i>)	

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

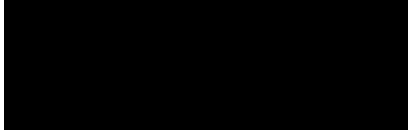
Pursuant to Rule 23.2 of this Court’s Rules of Practice and Procedure, the United States opposes Appellate Victims’ Counsel’s Motion for Leave to File Opposition to Appellant’s Motion for Enlargement of Time. A.F. lacks standing to oppose Appellant’s motion of enlargement of time under Article 6b.

A.F. does have the “right to proceedings free from unreasonable delay” under Article 6b(a)(7). However, by the plain language of Article 6b(e), the mechanism to enforce that right is a petition for a writ of mandamus from this Court. Such a petition is designed to allow a victim to seek relief from rulings by either a preliminary hearing officer or court-martial that violated their rights. Article 6b(e)(1), (e)(4); *see In re HK*, 2021 CCA LEXIS 535, at *7 (A.F. Ct. Crim. App. Sep. 13, 2021) (Victim had “standing to be heard on her right to proceedings free from unreasonable delay” through writ of mandamus). There is no similar language that affords A.F. standing to file a motion for a case already pending appellate review.

The United States shares A.F.’s desire for “real finality” in Appellant’s case, including a complete appellate review. *Calderon v. Thompson*, 523 U.S. 538, 556 (1998). Regardless,

neither Article 6b nor Article 66 contain language that implies A.F. has standing to oppose Appellant's motion for enlargement of time with this Court.

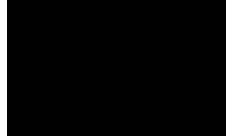
WHEREFORE, the United States respectfully opposes A.F.'s motion.



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MATTHEW TALCOTT, Colonel, USAF
Director, Government Trial and Appellate
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FOR

MARY ELLEN PAYNE
Associate Chief, Government
Trial and Appellate Counsel Division
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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 18 July 2025.



R
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
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134. The military judge sentenced Appellant to be reprimanded, to be confined for a total of forty months,² and to be dismissed from the service. R. at 375-376.

The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Maj Grande is currently assigned 31 cases; 24 cases are pending before this Court (19 cases are pending AOE). One case has priority over the present case:

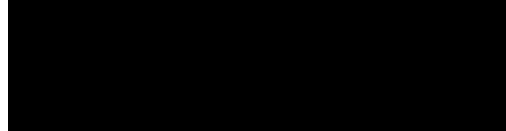
1. *United States v. Hilson*, ACM No. 24063 – The record of trial consists of one E-ROT with two volumes. It contains two Prosecution Exhibits, one Court Exhibit, eight Defense Exhibits, and four Appellate Exhibits. The transcript is 156 pages long. Undersigned counsel has completed her review of the record in this case but has not yet completed the brief. She does not anticipate requesting another EOT in this case.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

² Appellant was credited with 197 days of pretrial confinement credit. R. at 375-376.

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

Respectfully submitted,



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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims Counsel as *amicus curiae counsel* on 14 July 2025.



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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
)	
v.	)	Before Panel No. 1
)	
Major (O-4)	)	No. ACM 40689
WILLIAM J. FUNDIS,)	
United States Air Force,	)	15 July 2025
<i>Appellant.</i>)	

**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.

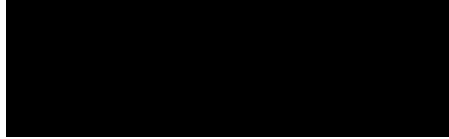
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
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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 15 July 2025.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,
Appellee

v.

Major (O-4)
WILLIAM J. FUNDIS,
United States Air Force,
Appellant

MOTION FOR LEAVE TO OBJECT TO
ENLARGEMENT OF TIME ON BEHALF
OF VICTIM A.F and MOTION FOR
APPROPRIATE RELIEF

No. ACM 40689

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

A.F. through her undersigned counsel pursuant to A.F. CT. CRIM. APP. R. 23(d) moves to object to the Appellant's Motion for Enlargement of Time (Eighth) and move this Court to order Appellant file his Assignments of Error without delay. As the Appellant has a statutory right to appeal his conviction under Article 66; his victim A.F. has a statutory right to proceedings free from unreasonable delay codified in Article 6b(a)(7). Granting the eighth enlargement of time violates A.F.'s right to proceedings free from unreasonable delay as the granting of the enlargement of time is unreasonable.

ARGUMENT

The Air Force Court of Criminal Appeals must account for victim's statutory rights when rendering decisions and issuing orders pursuant to Congress's direction in the National Defense Authorization Act of Fiscal Year 2014. 113 P.L. 66 (2013) (hereinafter 2014 NDAA). Congress required the Department of Defense and services "... shall prescribe such regulations as each such Secretary considers

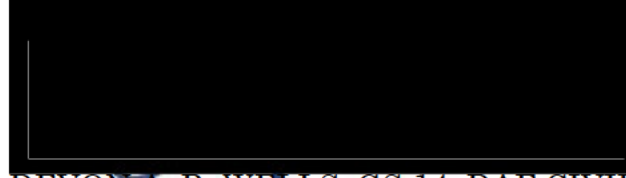
appropriate to implement such section [Article 6b].” 2014 NDAA § 1701 (b)(1)(B). Congress further outlined “Mechanisms for Affording Rights.— The recommendations and regulations required by paragraph (1) shall include the following: [. . .] Mechanisms for ensuring that members of the Armed Forces and civilian personnel of the Department of Defense [. . .] make their best efforts to ensure that victims are notified of, and accorded, the rights specified in such section.” Id. at § 1701(b)(2)(B). Congress duly enacted a law requiring all members of the Armed Forces make best efforts to accord victim’s rights.

A.F. deserves a case that is timely processed and efficiently moved through the military justice appellate proceedings as recognized by Congress and codified under Article 6b(a)(7). A.F. has a right to timely finality of judgment, especially since Appellant pled guilty to all offenses for which he was found guilty. “Only with real finality can the victims of crime move forward knowing the moral judgment will be carried out.” *Calderon v. Thompson*, 523 U.S. 538, 556 (1998).

A.F. should not have to endure this unreasonable delay simply because of the workload of appellate counsel as the Appellant’s request attests that the sole reason seeking the eighth enlargement of time is linked to her caseload and is “[t]hrough no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant’s case.” Motion for EOT (Eighth) at 2.

To accord A.F. her right to proceedings free from unreasonable delay, A.F. respectfully motions for leave to object to the Appellant’s Motion and moves this Court to order Appellant to file his Assignments of Error without delay.

RESPECTFULLY SUBMITTED this 15th day of July, 2025.



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CERTIFICATE OF FILING AND SERVICE

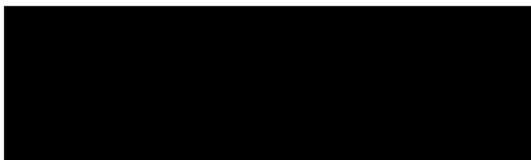
I certify that on July 15, 2025, the foregoing was electronically filed with the
Court and served on the following addresses:

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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	OPPOSITION TO VICTIM A.F.
<i>Appellee,</i>	)	MOTION FOR LEAVE TO FILE
	)	OPPOSITION TO APPELLANT’S
v.	)	EIGHTH MOTION FOR
	)	ENLARGEMENT OF TIME
MAJOR (O-4))	
WILLIAM J. FUNDIS,	)	Before Panel No. 1
United States Air Force,)	
<i>Appellant.</i>	)	No. ACM 40689
)	
	)	16 July 2025

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

Pursuant to Rule 23.3(c) of this Honorable Court’s Rules of Practice and Procedure, Appellant opposes A. F.’s 15 July 2025 “Motion For Leave to Object to Enlargement of Time on Behalf of Victim A.F. and Motion for Appropriate Relief.” Counsel for A.F. seeks leave to file an opposition to Appellant’s 14 July 2025 Motion for Enlargement of Time (Eighth) on the basis that “A.F. has a statutory right to proceedings free from unreasonable delay codified in Article 6b(a)(7).” A.F.’s Motion at 1.

A.F. is not a party to this litigation. *See LRM v. Kastenber*, 72 M.J. 364, 368 (C.A.A.F. 2016) (describing LRM as a “nonparty”). The only parties to the action before the Court, ACM No. 40689, are the United States and Maj William J. Fundis.

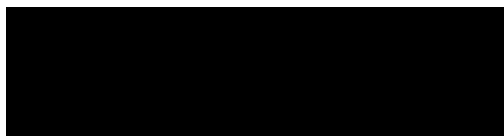
There is no basis for A.F. to intervene in this case. This case does not present a question on an extraordinary writ to enforce rights under Article 6b, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 806b, or any other statutory right. Nowhere in Art. 6(b), UCMJ is the term “appeal” or “appellate” used. A.F. has no standing to be heard in this appeal as presently postured.

There is no current basis for A.F. to intervene in this case and any right conferred by Article 6(b), Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 806(b) is 1) unenforceable in this Court except through a writ of mandamus to address the specific circumstances discussed in Art. 6(b)(e); and 2) does not and cannot prevail over nor infringe upon Appellant's Fifth Amendment constitutional right to counsel, nor his right to effective assistance of counsel on appeal under Article 70, UCMJ, 10 U.S.C. § 870. *See, e.g., United States v. Gaddis*, 70 M.J. 248, 252-53 (C.A.A.F. 2011); *United States v. Adams*, 59 M.J. 367 (C.A.A.F. 2004) ("An accused has the right to effective representation by counsel through the entire period of review following trial, including representation before the Court of Criminal Appeals . . . by appellate counsel appointed under Article 70, UCMJ. . . ." (citing *Diaz v. The Judge Advocate General of the Navy*, 59 M.J. 34, 37 (C.A.A.F. 2003))).) If such unlikely situation surfaces as specifically contemplated by Art. 6(b)(e), UCMJ, A.F. can follow the process in Article 6b, UCMJ, to enforce those rights.

This Court should reject A.F.'s Motion. No statute, regulation, or rule permits it, and this Court should not sanction a departure from the textual standard.

WHEREFORE, Appellant requests that this Honorable Court deny A.F.'s Motion.

Respectfully submitted,



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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 16 July 2025.



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

UNITED STATES)	No. ACM 40689
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
William J. FUNDIS.)	
Major (O-4))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

This case was docketed with the court on 27 September 2024. On 14 July 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Eighth) requesting an additional 30 days to submit Appellant’s assignments of error. On 15 July 2025, the Government opposed the motion.

Also, on 15 July 2025, the victim in the above-styled case, AF, through counsel, filed a “Motion for Leave to Object to Enlargement of Time on Behalf of Victim [AF] and Motion for Appropriate Relief.” On 16 July 2025, and in response to AF’s motion, Appellant’s counsel filed a motion with this court opposing AF’s motion for leave to file opposition to Appellant’s request for an eighth enlargement of time. Specifically, Appellant’s counsel stated, “[AF] is not a party to this litigation,” and “[t]here is no basis for [AF] to intervene in this case.”

On 17 July 2025, AF’s counsel filed another motion titled “Motion for Leave to Reply to Appellant’s Response to Motion for Leave to Object to Enlargement of Time on Behalf of Victim [AF] and Motion for Appropriate Relief.”¹

On 18 July 2025, the Government filed with this court a motion for leave to file opposition to AF’s motions.

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

¹ On 29 November 2024, AF’s counsel filed a Notice of Appearance with this court, followed by a Notice of Representation on 5 December 2024. The court accepted the Notice of Representation but mooted the Notice of Appearance.

will not consider AF's motions opposing Appellant's request for an eighth enlargement of time.²

Accordingly, it is by the court on this 18th day of July, 2025,

ORDERED:

Appellant's Motion for Enlargement of Time (Eighth) is **GRANTED**. Appellant shall file any assignments of error not later than **23 August 2025**.

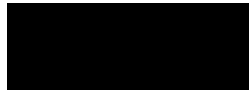
Further requests by Appellant for enlargements of time may necessitate a status conference.

It is further ordered:

AF's "Motion for Leave to Object to Enlargement of Time on Behalf of Victim [AF] and Motion for Appropriate Relief," dated 15 July 2025, and "Motion for Leave to Reply to Appellant's Response to Motion for Leave to Object to Enlargement of Time on Behalf of Victim [AF] and Motion for Appropriate Relief," dated 17 July 2025, are **DENIED AS MOOT**.



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

² The Court acknowledges AF may have Article 6b, Uniform Code of Military Justice, 10 U.S.C. § 806b, rights related to Appellant's case, including the right to be free from unreasonable delay. However, the motions discussed *supra* are not the mechanism, if any, in which AF may exercise her rights before this court pursuant to Article 6b, UCMJ.

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

UNITED STATES	)	No. ACM 40689
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
William J. FUNDIS.)	
Major (O-4))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

This case was docketed with the court on 27 September 2024. On 15 August 2025, military appellate defense counsel for Appellant submitted a Motion for Enlargement of Time (Ninth) requesting an additional 30 days to submit Appellant’s assignments of error.

Appellate defense counsel asserts as a basis for this motion that Appellant has “hired” civilian counsel, with no further information provided. The court draws attention to this court’s Rule 12.1 which requires “within 15 business days of retention by the appellant . . . non-federal civilian counsel shall submit to this [c]ourt a notice of appearance.” A.F. CT. CRIM. APP. R. 12.1. At this time, said civilian counsel has not filed a notice of representation nor a notice of appearance (by way of signing the motion); nor has civilian counsel been identified. Further, in any case where an appellant does specifically request civilian counsel by name, appellant’s counsel is required to “communicate with civilian counsel to coordinate representation of appellant and ensure civilian counsel’s proper appearance before the [c]ourt. All counsel must be familiar with these rules.” A.F. CT. CRIM. APP. R. 11.2.

Additionally, motions for enlargement of time that, if granted, will expire more than 180 days after docketing will contain, *inter alia*, “a detailed explanation of the number and complexity of counsel’s pending cases; a statement of other matters that have priority over the subject case; and a statement as to progress being made on the subject case” *See generally*, A.F. CT. CRIM. APP. R. 23.3(m). Therefore, civilian counsel will also be required to comply with this Rule.

On 19 August 2025, the Government opposed the motion.

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

Accordingly, it is by the court on this 22d day of August, 2025,

ORDERED:

Appellant's Motion for Enlargement of Time (Ninth) is **GRANTED IN PART**. Appellant shall file any assignments of error **not later than 15 September 2025**.

Any further enlargements of time will require compliance with this court's rules, and may necessitate a status conference



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION
<i>Appellee,</i>	)	FOR ENLARGEMENT
	)	OF TIME (NINTH)
v.)	
	)	Before Panel No. 1
Major (O-4))	
WILLIAM J. FUNDIS,	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	15 August 2025

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

Pursuant to Rule 23.3(m)(1), (4), and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **22 September 2025**.

Appellant’s case was docketed with this Court on 27 September 2024. From the date of docketing to the present date, 322 days have elapsed. On the date requested, 360 days will have elapsed since docketing.

From 26-27 June 2024, Appellant was tried by a General Court-Martial composed of a military judge alone at Scott Air Force Base, Illinois. R. at 1, 24, 374, 377. Appellant was convicted consistent with his pleas and pursuant to a plea agreement of One Charge with Two Specifications of assault consummated by a battery, in violation of Article 128, Uniform Code of Military Justice (UCMJ), and Two Charges with Three Specifications and Five Specifications,¹ respectively, of domestic violence, in violation of Article 128b, UCMJ. R. at 27-28, 142-143; App. Ex. XIV. Pursuant to the plea agreement, One Charge with One Specification of obstruction of justice, in violation of Article 131b was withdrawn and dismissed with prejudice. R. at 133-

¹ There are two named victims in this case: AF and SF.

134. The military judge sentenced Appellant to be reprimanded, to be confined for a total of forty months,² and to be dismissed from the service. R. at 375-376.

The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Appellant is currently confined. Undersigned counsel has completed her review of the record in this case; however, Appellant has hired civilian counsel and has expressed his desire that civilian counsel draft the AOE.³

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Maj Grande is currently assigned 29 cases; 25 cases are pending before this Court (18 cases are pending AOE). Two cases have priority over the present case:

1. *United States v. Gale*, Misc. Dkt. No. 2025-01/ USCA Dkt. No 25-0237/AF-

Undersigned counsel is working with civilian counsel to draft a Supplement to the Petition for Grant of Review in this Art. 62, UCMJ case, which is due to the Court of Appeals for the Armed Forces by 2 September 2025.

2. *United States v. Hedgepeth*, ACM No. 40681- The reply brief for this case is currently undergoing leadership review and will be filed with this Court by 19 August 2025.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose

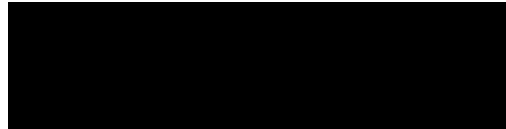
² Appellant was credited with 197 days of pretrial confinement credit. R. at 375-376.

³ Appellant provided limited consent to disclose this confidential communication.

a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,



JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
Email: jordan.grande@us.af.mil

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims Counsel as *amicus curiae counsel* on 15 August 2025.



JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
Email: jordan.grande@us.af.mil

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
)	
v.	)	Before Panel No. 1
)	
Major (O-4)	)	No. ACM 40689
WILLIAM J. FUNDIS,)	
United States Air Force,	)	19 August 2025
<i>Appellant.</i>)	

**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. Appellant’s nearly year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed almost two thirds of the 18-month standard for this Court to issue a decision, which only leaves about 6 months combined for the United States and this Court to perform their separate statutory responsibilities.

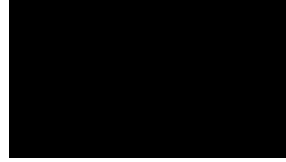
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4804

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 19 August 2025.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations
1500 W. Perimeter Road, Suite 1190
Joint Base Andrews, MD
DSN: 612-4804

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee,

v.

Major (O-4)

William J. FUNDIS

United States Air Force,

Appellant.

NOTICE OF APPEARANCE

Before Panel No. 1

Case No. ACM 40689

Filed on: 22 August 2025

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

COMES NOW, Frank J. Spinner, pursuant to Rule 12 of this Court's Rules of Practice and Procedure, and hereby files this written notice of appearance. In addition, counsel hereby informs this Court of the following:

- (1) Business mailing address is: 1420 Golden Hills Road, Colorado Springs, CO 80919;
- (2) Phone number is: 719-233-7192
- (3) Business email is: lawspin@aol.com; and
- (5) I am member of this Court's bar since 1987.

Respectfully submitted,

██████████ ███ ██████████

FRANK J. SPINNER
Attorney at Law

████████████████████

████████████████████████████████

████████████████

████████████████████████████

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via electronic mail to the Court and served on the Appellate Government Division on 22 August 2025.

[REDACTED]

FRANK J. SPINNER
Attorney at Law

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' MOTION
<i>Appellee,</i>	)	TO ATTACH
)	
v.	)	Before Panel No. 1
)	
Major (O-4)	)	No. ACM 40689
WILLIAM J. FUNDIS)	
United States Air Force	)	22 September 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(b) of this Court's Rules of Practice and Procedure, the United States hereby moves this Court to attach the following document to the record of trial:

- US v. Fundis – 26 Jun 25 – Transcript of Missing Spec 2, Charge I (22 September 2025), 4 pages

The United States believes an affidavit or unsworn declaration is not required pursuant to Rule 23.3(b) because the authenticity of the transcript is readily apparent by comparing it to the verbatim audio recording in Appellant's record of trial; specifically, the file labeled "US v Fundis – 20240626-1005.mp3" beginning at approximately 26:40 and ending at approximately 34:40. Should this Court disagree, the United States will promptly provide a declaration to the Court.

The attached transcript cures the omission of Appellant's plea colloquy for Specification 2, Charge 1 from the verbatim transcript attached to Appellant's record of trial. Our superior Court held matters outside the record may be considered "when doing so is necessary for resolving issues raised by materials in the record." United States v. Jessie, 79 M.J. 437, 444 (C.A.A.F. 2020). Attachment of the missing part of the transcription to the record of trial is

necessary for resolving whether the transcription is complete pursuant to R.C.M. 1114 and is helpful for this Court and Appellant to complete review of Appellant's case.

WHEREFORE, the United States respectfully requests this Court grant this Motion to Attach.



HEATHER R. BEZOLD, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800



MATTHEW D. TALCOTT, Colonel, USAF
Director
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 the Air Force
Appellate Defense Division on 22 September 2025.



HEATHER R. BEZOLD, Capt, 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

UNITED STATES,	)	UNITED STATES’ MOTION
<i>Appellee,</i>	)	TO ATTACH (Amended)
)	
v.	)	Before Panel No. 1
)	
Major (O-4)	)	No. ACM 40689
WILLIAM J. FUNDIS)	
United States Air Force	)	23 September 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(b) of this Court’s Rules of Practice and Procedure, the United States hereby moves this Court to attach the following document to the record of trial:

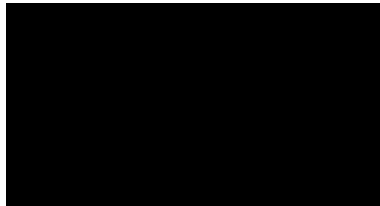
- **US v. Fundis – Court Reporter Declaration (Lamb – 23 Sep 2025)(transcript attached), 6 pages**

The attached transcript cures the omission of Appellant’s plea colloquy for Specification 2, Charge 1 from the verbatim transcript attached to Appellant’s record of trial. Our superior Court held matters outside the record may be considered “when doing so is necessary for resolving issues raised by materials in the record.” United States v. Jessie, 79 M.J. 437, 444 (C.A.A.F. 2020). Attachment of the missing part of the transcription to the record of trial is necessary for resolving whether the transcription is complete pursuant to R.C.M. 1114 and is helpful for this Court and Appellant to complete review of Appellant’s case.

WHEREFORE, the United States respectfully requests this Court grant this Motion to Attach.



HEATHER R. BEZOLD, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800



MATTHEW D. TALCOTT, Colonel, USAF
Director
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 the Air Force
Appellate Defense Division on 23 September 2025.



HEATHER R. BEZOLD, Capt, 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

UNITED STATES,	)	UNITED STATES' MOTION
<i>Appellee,</i>	)	TO AMEND
)	
v.	)	Before Panel No. 1
)	
Major (O-4)	)	No. ACM 40689
WILLIAM J. FUNDIS)	
United States Air Force	)	23 September 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(n) of this Court's Rules of Practice and Procedure, the United States respectfully moves to amend the following motion filed with this Court: United States' Motion to Attach, dated 22 September 2025

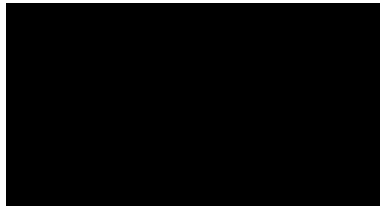
Undersigned counsel was informed on 23 September that the court reporter who was originally detailed to Appellant's case was able to re-review the audio recording of Appellant's court-martial. She was able to decipher more of the audio than the other court reporter and accomplish a transcript with less sections marked "inaudible". To ensure this Court and Appellant's counsel have the most complete transcript available, the United States seeks to amend its motion to attach by substituting the previously attached document with the following: **US v. Fundis – Court Reporter Declaration (Lamb – 23 Sep 2025)(transcript attached), 6 pages**

The corrected motion and attachment are appended to this filing.

WHEREFORE, the United States respectfully requests this Court grant this Motion to Amend.



HEATHER R. BEZOLD, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800



MATTHEW D. TALCOTT, Colonel, USAF
Director
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 the Air Force
Appellate Defense Division on 23 September 2025.



HEATHER R. BEZOLD, Capt, 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**

UNITED STATES	)	No. ACM 40689
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
William J. FUNDIS.)	
Major (O-4))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 27 June 2024, a general court-martial composed of a military judge convicted Appellant, in accordance with his pleas and pursuant to a plea agreement, of two specifications of assault consummated by a battery, and eight specifications of domestic violence, in violation of Articles 128 and 128b, Uniform Code of Military Justice, 10 U.S.C. § 928, 928b, respectively. The military judge sentenced Appellant to a dismissal, 40 months confinement, and a reprimand. The convening authority took no action on the findings or the sentence.

This case was docketed with the court on 27 September 2024.

On 22 August 2025, by order, we granted, in part, Appellant’s opposed motion for a ninth enlargement of time (EOT-9), setting a new filing date of 15 September 2025 for Appellant to file any assignments of error.

On 15 September 2025, counsel for Appellant moved this court for leave to file a motion for remand, accompanied by the motion for remand. On 23 September 2025, the Government opposed this motion.

Counsel for Appellant requested the record be remanded due to the following discrepancy: five transcript pages are missing from the record of trial that contain the guilty plea inquiry for Specification 2 of Charge I (assault consummated by a battery). Appellant claims such omission from a record of trial renders it incomplete. Neither party disputes that the verbatim recording of Appellant’s court-martial is complete.

On 22 September 2025, the Government opposed Appellant’s motion for remand and moved this court to attach the five missing transcript pages to the record of trial, accompanied by a declaration prepared by a court reporter

attesting that these pages are part of Appellant’s transcript.¹ The Government argues that “[t]he verbatim transcript is an attachment to the record pursuant to [Rule for Courts-Martial (R.C.M.)] 1114, and not a requirement for completion under R.C.M. 1112.” We agree.

In the interim, on 23 September 2025,² Appellant moved, out of time, this court to reconsider its EOT-9 order, dated 22 August 2025. The court’s order granted Appellant’s motion for a ninth enlargement of time in part, setting a date of 15 September 2025 for Appellant to file any assignments of error. Such “a motion must make a showing of good cause before the [c]ourt will reconsider a court order.” See A.F. CT. CRIM. APP. R. 31.1. Appellant bases his argument on the missing transcript pages from Appellant’s record of trial. Based on the court’s ruling, *infra*, of Appellant’s motion to remand his case, the panel declines to reconsider its order of 22 August 2025.

Further, on 23 September 2025, Appellant moved this court to grant him a tenth enlargement of time out of time requesting an additional 30 days to submit Appellant’s assignments of error, making the new date 15 October 2025 for Appellant to file any assignments of error. While the period for a response has not ended yet, we *sua sponte* grant Appellant’s motion for a tenth enlargement of time out of time. The Government may still file a response to this motion for the record.

The court has considered Appellant’s motions, the Government’s opposition to Appellant’s motion for remand, the Government’s motion to attach and its amended motion to attach, case law, and this court’s Rules of Practice and Procedure.

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

ORDERED:

Appellant’s Motion for Leave to File Motion for Remand is **GRANTED**.

Appellant’s Motion for Remand is **DENIED**.

¹ On 22 September 2025, the Government filed its opposition to Appellant’s motion to remand. Then on this same date, it filed a motion to attach the missing transcript pages, accompanied by the transcript pages. Soon thereafter, on 23 September 2025, the Government moved to amend their motion to attach, resubmitting the missing transcript pages along with a declaration from the court reporter. We accept the Government’s filings.

² Appellant originally filed this motion for reconsideration on 18 September 2025, combined with its motion for a tenth enlargement of time. The motion was returned with no action as it was noncompliant with Rule 23.1 of this court’s Rules of Practice and Procedure which requires that each motion be filed separately and not be consolidated with another motion. See A.F. CT. CRIM. APP. R. 23.1.

Government's Motion to Amend and Motion to Attach (Amended) are **GRANTED**. Government's original Motion to Attach is **MOOT**.

Appellant's Motion Out of Time for Reconsideration of Court Order Dated 22 August 2025 is **DENIED**.

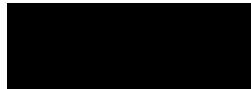
It is further ordered:

Appellant's Motion for Enlargement of Time (Tenth) Out of Time is **GRANTED**. Appellant shall file any assignments of error not later than **15 October 2025**.

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



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

<p>UNITED STATES, <i>Appellee,</i></p> <p>v.</p> <p>Major (O-4) WILLIAM J. FUNDIS, United States Air Force, <i>Appellant.</i></p>	<p>) APPELLANT’S MOTION OUT OF) TIME FOR RECONSIDERATION) OF COURT ORDER DATED 22) AUGUST 2025</p> <p>)</p> <p>) Before Panel No. 1</p> <p>)</p> <p>) No. ACM 40689</p> <p>)</p> <p>) 23 September 2025</p> <p>)</p> <p>)</p>
---	--

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

Pursuant to Rule 23.3(m)(1), (4), and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves out of time for reconsideration of the court order dated 22 August 2025. By separate motion, Appellant requests an enlargement for an indefinite period, which is until the Appellant receives a complete and corrected certified copy of the transcript from his record of trial.

Appellant’s case was docketed with this Court on 27 September 2024. From the date of docketing to the present date, approximately 355 days have elapsed.

From 26-27 June 2024, Appellant was tried by a General Court-Martial composed of a military judge alone at Scott Air Force Base, Illinois. R. at 1, 24, 374, 377. Appellant was convicted consistent with his pleas and pursuant to a plea agreement of One Charge with Two Specifications of assault consummated by a battery, in violation of Article 128, Uniform Code of Military Justice (UCMJ), and Two Charges with Three Specifications and Five Specifications,¹ respectively, of domestic violence, in violation of Article 128b, UCMJ. R. at 27-28, 142-143;

¹ There are two named victims in this case: AF and SF.

App. Ex. XIV. Pursuant to the plea agreement, One Charge with One Specification of obstruction of justice, in violation of Article 131b was withdrawn and dismissed with prejudice. R. at 133-134. The military judge sentenced Appellant to be reprimanded, to be confined for a total of forty months,² and to be dismissed from the service. R. at 375-376.

The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Appellant is currently confined. Air Force counsel has completed her review of the record in this case; however, Appellant hired undersigned civilian counsel and has expressed his desire that civilian counsel draft the AOE.³

On 22 August 2025, the Court granted the ninth motion for enlargement of time and issued an order directing that the assignments of error brief must be filed no later than 15 September 2025. Undersigned civilian counsel was drafting a brief the week of 8 September 2025 when it was discovered that a substantial portion of the transcript omitted the *Care* Inquiry for Charge I, Specification 2, as more fully detailed in Appellant's Motion to Remand. Air Force Appellate Defense co-counsel was tasked to inspect the Court's copy of the transcript which revealed that the original copy of the transcript was also incomplete.

At that point, Air Force Appellate Defense co-counsel listened to the audio recording of the trial and discovered that, in fact, there was a recording of this portion of the *Care* inquiry that was missing in the transcript. Upon learning this, undersigned civilian counsel directed co-counsel to prepare and file a motion to remand, which was filed on 15 September 2025. A motion for extension of time was not filed given the circumstances existing at that time. Without a

² Appellant was credited with 197 days of pretrial confinement credit. R. at 375-376.

³ Appellant provided limited consent to disclose this confidential communication.

certified and corrected complete copy of the transcript, appellate defense counsel are in no position to complete an assignments of error brief. Appellant has been informed of these events and concurs in seeking reconsideration and an enlargement of time. In any event, Appellant and his appellate counsel have not received a certified corrected copy of the record of trial. Because appellate defense counsel cannot predict when a certified corrected copy of the transcript will be served on them or their client, no specific date has been requested in the motion for enlargement of time being filed concurrent with this motion.

Appellant provided limited consent to disclose confidential communications with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,

[REDACTED] [REDACTED]
FRANK J. SPINNER
Attorney at Law
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims Counsel as *amicus curiae counsel* on 23 September 2025.

[REDACTED]

FRANK J. SPINNER
Attorney at Law

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION OUT OF
<i>Appellee,</i>	)	TIME FOR ENLARGEMENT OF
	)	TIME (TENTH)
v.)	
	)	Before Panel No. 1
Major (O-4))	
WILLIAM J. FUNDIS,	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	23 September 2025
)	
)	
)	

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

Pursuant to Rule 23.3(m)(1), (4), and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves out of time for an enlargement of time to file Assignments of Error (Tenth). Appellant requests an enlargement for an indefinite period, which is until the Appellant receives a complete and corrected certified copy of the transcript from his record of trial.

Appellant’s case was docketed with this Court on 27 September 2024. From the date of docketing to the present date, approximately 355 days have elapsed.

From 26-27 June 2024, Appellant was tried by a General Court-Martial composed of a military judge alone at Scott Air Force Base, Illinois. R. at 1, 24, 374, 377. Appellant was convicted consistent with his pleas and pursuant to a plea agreement of One Charge with Two Specifications of assault consummated by a battery, in violation of Article 128, Uniform Code of Military Justice (UCMJ), and Two Charges with Three Specifications and Five Specifications,¹ respectively, of domestic violence, in violation of Article 128b, UCMJ. R. at 27-28, 142-143;

¹ There are two named victims in this case: AF and SF.

App. Ex. XIV. Pursuant to the plea agreement, One Charge with One Specification of obstruction of justice, in violation of Article 131b was withdrawn and dismissed with prejudice. R. at 133-134. The military judge sentenced Appellant to be reprimanded, to be confined for a total of forty months,² and to be dismissed from the service. R. at 375-376.

The record of trial consists of six volumes, with eight Prosecution Exhibits, two Court Exhibits, eighteen Defense Exhibits, and eighteen Appellate Exhibits. The transcript is 377 pages long. Appellant is currently confined. Air Force counsel has completed her review of the record in this case; however, Appellant hired undersigned civilian counsel and has expressed his desire that civilian counsel draft the AOE.³

On 22 August 2025, the Court granted the ninth motion for enlargement of time and issued an order directing that the assignments of error brief must be filed no later than 15 September 2025. Undersigned civilian counsel was drafting a brief the week of 8 September 2025 when it was discovered that a substantial portion of the transcript omitted the *Care* Inquiry for Charge I, Specification 2, as more fully detailed in Appellant's Motion to Remand. Air Force Appellate Defense co-counsel was tasked to inspect the Court's copy of the transcript which revealed that the original copy of the transcript was also incomplete.

At that point, Air Force Appellate Defense co-counsel listened to the audio recording of the trial and discovered that, in fact, there was a recording of this portion of the *Care* inquiry that was missing in the transcript. Upon learning this, undersigned civilian counsel directed co-counsel to prepare and file a motion to remand, which was filed on 15 September 2025. A motion for extension of time was not filed given the circumstances existing at that time. Without a

² Appellant was credited with 197 days of pretrial confinement credit. R. at 375-376.

³ Appellant provided limited consent to disclose this confidential communication.

certified and corrected complete copy of the transcript, appellate defense counsel are in no position to complete an assignments of error brief. Appellant has been informed of these events and concurs in seeking an additional enlargement of time. In any event, Appellant and his appellate counsel have not received a certified corrected copy of the record of trial. Because appellate defense counsel cannot predict when a certified corrected copy of the transcript will be served on them or their client, no specific date is being requested.

Appellant provided limited consent to disclose confidential communications with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,

[REDACTED] [REDACTED] [REDACTED]
FRANK J. SPINNER
Attorney at Law
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims Counsel as *amicus curiae counsel* on 23 September 2025.

[REDACTED]

FRANK J. SPINNER
Attorney at Law

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
)	
v.	)	Before Panel No. 1
)	
Major (O-4)	)	No. ACM 40689
WILLIAM J. FUNDIS,)	
United States Air Force,	)	25 September 2025
<i>Appellant.</i>)	

**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 Out of Time Motion for Enlargement of Time to file an Assignment of Error in this case.

This Court should reject Appellant’s untimely motion for a tenth enlargement of time for three reasons: (1) Appellant’s counsel continues to fail to comply with this Court’s Rules of Practice and Procedure; (2) Appellant has not provided adequate justification for failing to timely file his motion; and (3) Appellant has not established good cause for his request for an “indefinite” enlargement of time.

1. The untimely motion should be rejected because Appellant’s counsel continues to fail to comply with this Court’s Rules.

This Court highlighted in its 22 August 2025 order that Appellant’s counsel, whether civilian or military, are required to include “a detailed explanation of the number and complexity of counsel’s pending cases; a statement of other matters that have priority over the subject case; and a statement as to progress being made on the subject case” for motions requesting an extension of time that would expire more than 180 days from docketing. (*Order*, dated 22 August 2025)

(quoting A.F. Ct. Crim. App. R. 23.3(m)). The Court concluded, “Any further enlargements of time will require compliance with this court’s rules...” (*Order*). Despite this reminder, Appellant’s counsel has not complied with this Court’s rules. First, an “indefinite” enlargement of time, as Appellant requests, is not authorized. Rule 23.3(m)(3) allows for enlargements, after the first enlargement, “not to exceed 30 calendar days.” Second, Appellant’s counsel has not complied with Rule 23.3(m)(6), despite this Court previously highlighting its requirements. His out of time motion does not contain “a detailed explanation of the number and complexity of counsel’s pending cases; a statement of other matters that have priority over the subject case; and a statement as to progress being made on the subject case.” (A.F. Ct. Crim. App. R. 23.3(m)(6)).

2. Appellant’s counsel did not explain his good cause for filing the motion out of time as required by Rule 23.3(m)(7).

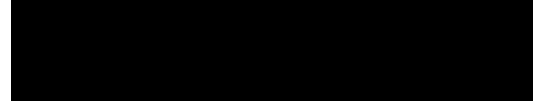
Appellant’s counsel merely provides a conclusory statement that, “A motion for [enlargement] of time was not filed given the circumstances existing at that time.” This is insufficient to establish good cause. It is unclear what circumstances prevented Appellant’s counsel from requesting an enlargement of time to file Appellant’s assignments of error. It cannot be that he did not know about the missing piece of the transcript, since Appellant’s counsel was aware that one specification was missing from the transcript on 8 September – seven calendar days before his brief was due. It cannot be that he was awaiting a ruling on his 15 September motion for remand – since a motion requesting remand does not toll his deadline to file a brief. It is Appellant’s burden to establish good cause, and Appellant’s counsel has not done so. Therefore, this Court should deny his out of time motion.

3. Even if Appellant’s motion was not untimely, he has not established good cause for an enlargement of time.

Appellant’s counsel’s claim that “appellate defense counsel are in no position to complete an assignments of error brief” without the plea colloquy for Charge I, Specification 2 in the transcript is not good cause. Appellant’s counsel had access to the audio recording of the entire plea colloquy in the record of trial as required under Article 54, UCMJ, and R.C.M. 1112. Appellant’s counsel were not only aware that the content existed, but even identified the specific audio file and specific time where the missing content began. (*Appellant’s Motion for Remand*, dated 15 September 2025). The relevant audio is a small portion the trial – less than 10 minutes of the entire trial – and could easily be reviewed to determine if it is relevant to a potential assignment of error. (*See United States’ Motion to Attach*, 22 September 2025) (identifying that the relevant audio begins at 26:40 and ends at 34:40). His decision to not use that information and instead rely on a minor omission in the transcript to claim he was in “no position” to file an assignment of error is not good cause for an enlargement of time. Therefore, Court should deny his motion.

Further, The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant more than a year to submit an assignment of error to this Court. Even if this Court were to only grant Appellant the 30-day enlargement contemplated by Rule 23.3(m)(3), the defense delay in this case will be 391 days in length. Appellant’s more than a 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 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.

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



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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 25 September 2025.



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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>)	MOTION FOR LEAVE TO FILE
	)	MOTION FOR REMAND AND
	)	MOTION FOR REMAND
v.)	
	)	Before Panel No. 1
Major (O-4))	
WILLIAM J. FUNDIS,	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	15 September 2025

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

Pursuant to Rule 6(c), 23(d), and 23.3 of this Honorable Court’s Rules of Practice and Procedure, Appellant, Major (Maj) William J. Fundis, hereby moves this Court for leave to file a motion for remand to correct omissions in the record. Pursuant to Rule 23(d), the motion for leave to file the pleading, along with the pleading itself, are combined herein.

Appellant’s general court-martial transcription is incomplete and not verbatim. *See* Motion *infra*. Addressing the incompleteness of the Record of Trial (ROT) now as opposed to in Appellant’s assignments of error avoids piecemeal review of Appellant’s court-martial and allows this Court and undersigned counsel to meaningfully fulfill their individual roles under Articles 66 and 70, Uniform Code of Military Justice (UCMJ), 10 U.S.C. §§ 866, 870.

WHEREFORE, Appellant respectfully requests this Honorable Court grant his motion for leave to file and consider the motion for remand included below.

MOTION

Facts

From 26-27 June 2024, Appellant was tried by a general court-martial composed of a military judge alone at Scott Air Force Base, Illinois. R. at 1, 24, 374, 377. Appellant was convicted consistent with his pleas and pursuant to a plea agreement of one charge with two specifications of assault consummated by a battery, in violation of Article 128, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 928; and two charges with eight total specifications of domestic violence, in violation of Article 128b, UCMJ, 10 U.S.C. § 928b. R. at 27-28, 142-143; App. Ex. XIV.¹ Appellant plead guilty to, *inter alia*, charge I, specification 2, R. at 28, and was convicted of and sentenced for that specification. R. at 138, 375. The military judge sentenced Appellant to be reprimanded, to be confined for a total of forty months,² and to be dismissed from the service. R. at 375-376.

The transcript in Appellant's case does not contain a transcription of the guilty plea inquiry for charge I, specification 2.³ The guilty plea inquiry for charge I, specification 1 ends on page 51 of the transcript. R. at 51. The guilty plea inquiry for charge II, specifications 1, 2, and 3 follows immediately after the inquiry for charge I, specification 1, on page 51 of the transcript. R. at 51. The audio of the proceedings contains a recording of the guilty plea inquiry for charge I, specification 2, beginning at approximately 26:30 on the audio attachment labeled, "US v Fundis – 20240626-1005.mp3."

Law and Analysis

¹ Pursuant to the plea agreement, one Charge with one specification of obstruction of justice, in violation of Article 131b was withdrawn and dismissed with prejudice. R. at 133-134

² Appellant was credited with 197 days of pretrial confinement credit. R. at 375-376.

³ Undersigned counsel, Maj Grande, confirmed that the Court's copy of the transcript has the same omission.

Appellant's general court-martial transcription is incomplete and not verbatim. Article 54(c)(2), UCMJ, requires that a "complete record of proceedings and testimony shall be prepared in any case" where the sentence includes a discharge. 10 U.S.C. § 854. Rule for Courts-Martial (R.C.M.) 1112(b) states the record of trial must contain "[a] substantially verbatim recording of the court-martial proceedings." *See* R.C.M. 1114(a) ("A certified verbatim transcript of the record of trial shall be prepared [w]hen the judgment entered into the record includes . . . a dishonorable or bad-conduct discharge, or confinement for more than six months."). This certified transcript must be prepared without cost to the accused. R.C.M. 1114(c). If the record of trial forwarded to appellate defense counsel does not include a written transcript of the proceedings, "the Government shall provide appellate defense counsel with appropriate equipment for playback of the recording and with either (i) the means to transform the recording into a text format through voice recognition software or similar means; or (ii) a transcription of the record in either printed or digital format." R.C.M. 1116(b)(1)(A).

A substantial omission renders a record of trial incomplete. *United States v. Henry*, 53 M.J. 108, 111 (C.A.A.F. 2000) (citations omitted). An incomplete record may be returned to the military judge for correction. R.C.M. 1112(d)(2) ("A superior competent authority may return a [ROT] to the military judge for correction under this rule. The military judge shall give notice of the proposed correction to all parties and permit them to examine and respond to the proposed correction."). It is necessary for Appellant's counsel to review a complete record to competently conduct a professional evaluation of Appellant's case and to uncover all issues which might afford him relief. The failure to include "[a] substantially verbatim recording of the court-martial proceedings" is a prejudicial omission from the record and this Court should remand this case for the record to be completed in accordance with R.C.M. 1112(d)(2).

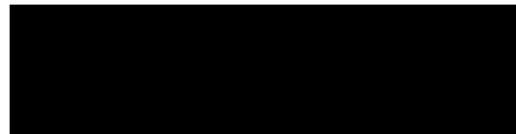
As this Court has emphasized, “[I]t is the Government’s responsibility to prepare the record of trial.” *United States v. Lovely*, 73 M.J. 658, 675 (A.F. Ct. Crim. App. 2014). This Court should order the Government to fulfill that responsibility by producing a complete transcription of the proceedings.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant this motion and return this case to the Chief Trial Judge, Air Force Trial Judiciary, for correction under R.C.M. 1112(d).

Respectfully submitted,



FRANK J. SPINNER
Attorney at Law

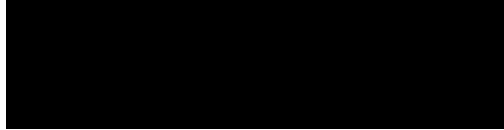


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CERTIFICATE OF FILING AND SERVICE

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 15 September 2025.

Respectfully submitted,



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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO MOTION FOR REMAND
)	
v.	)	Before Panel No. 1
)	
Major (O-4)	)	No. ACM 40689
WILLIAM J. FUNDIS)	
United States Air Force	)	22 September 2025
<i>Appellant.</i>)	

**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 opposes Appellant’s motion for remand because Appellant’s record of trial is complete pursuant to Article 54, UCMJ, and R.C.M. 1112. The verbatim transcript is an attachment to the record pursuant to R.C.M. 1114, not a requirement for completeness under R.C.M. 1112. Because of this, remand pursuant to R.C.M. 1112 is unnecessary and does not serve Appellant’s interest in speedy appellate review. Instead, this Court should allow the United States to attach the missing pages to the record of trial.

The United States acknowledges that the guilty plea colloquy for Charge I, Specification 2 is not transcribed in the record of trial, but that does not render Appellant’s record of trial incomplete. To be complete, a record of trial must comply with Article 54(c)(2), UCMJ, and the rules prescribed by the President. Article 54(c)(2) does not mandate a complete transcription of the proceeding. It only requires a “complete record of proceedings and testimony.” The President promulgated R.C.M. 1112 and specifically directed that a “record of trial is complete if it complies with the requirements of R.C.M. 1112(b). (R.C.M. 1112(d)(2)). R.C.M. 1112(b)

only requires a substantially verbatim “*recording*” of the court-martial – not a transcript.¹ A substantially verbatim audio recording of the proceedings and testimony is in the record of trial. The guilty plea colloquy for Charge I, Specification 2 is not missing from the audio recording, and Appellant has not alleged that the recording is otherwise deficient. (App. Mot. at 2). Therefore, the record of trial is complete in accordance with Article 54, UCMJ, and R.C.M. 1112, and remand pursuant R.C.M.1112(d) is inappropriate.

Further, omission of a portion of the transcript is not a substantial omission under United States v. Henry, 53 M.J. 108, 111 (C.A.A.F. 2020). The United States agrees with Appellant that it is necessary for his counsel to review a complete record of the proceedings to competently evaluate the case, but his counsel has not been denied that ability. As Appellant identified, the audio recording includes the plea colloquy missing from the transcript. (App. Mot. at 2). Omission of one part of the proceeding from the attached transcript is not a substantial omission when all parties have access to a substantially verbatim audio recording of the entire proceeding as required by R.C.M. 1112 and Article 54, UCMJ. Appellant’s counsel also has the means to transform the audio recording into a text format through Microsoft Teams’ capability to transcribe uploaded audio and therefore the United States has complied with its obligations under R.C.M. 1116.

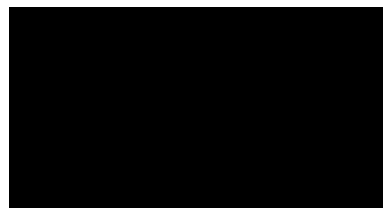
¹ Further supporting that a verbatim transcript is not considered part of the contents of the record of trial which could render it incomplete pursuant to R.C.M. 1112 is the change in the rules for courts-martial that occurred between the 2016 M.C.M. and the 2019 M.C.M. Before 2019, R.C.M. 1103(b)(2)(B), titled *Verbatim transcript required*, directed that “the record of trial shall include a verbatim transcript...” The rule changed in the 2019 M.C.M., and all later versions, and the relevant authority, R.C.M. 1112, now only requires a verbatim *recording* rather than a *transcript*. (R.C.M. 1112(b)(1)). A verbatim transcript is now merely considered an attachment to the record of trial pursuant to R.C.M. 1114 rather than part of the record of trial.

The United States acknowledges that R.C.M. 1114 required that a substantially verbatim transcript was attached to Appellant's record of trial. But when that omission does not render the record of trial incomplete pursuant to R.C.M. 1112(b), remand, and the delay it causes, is unnecessary. The United States seeks to expeditiously correct the omission of the plea colloquy for Charge I, Specification 2 from the attached transcripts. To do so, the United States has filed an appropriate motion attach the missing portions of the certified transcript simultaneously with this motion. This resolution not only satisfies Appellant's goal of obtaining a complete transcription to aid his counsel's review but also supports his right to speedy appellate review by avoiding unnecessary delay.

WHEREFORE, the United States requests this Court denies Appellant's motion for remand.



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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 22 September 2025.



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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	BRIEF ON BEHALF OF
<i>Appellee,</i>	)	APPELLANT
)	
v.)	
	)	Before Panel 1
Major (O-4))	
WILLIAM J. FUNDIS	)	No. ACM 40689
United States Air Force,)	
<i>Appellant.</i>	)	15 October 2025

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

Assignment of Error

The portion of the sentence providing for a dismissal is inappropriately severe.

Statement of the Case

From 26-27 June 2024, Appellant was tried by a General Court-Martial composed of a military judge alone at Scott Air Force Base, Illinois. R. at 1, 24, 374, 377. Major (hereinafter Maj) William J. Fundis was convicted consistent with his pleas and pursuant to a plea agreement of one Charge with two Specifications of assault consummated by a battery, in violation of Article 128, Uniform Code of Military Justice (UCMJ), and two Charges with three Specifications and Five Specifications,¹ respectively, of domestic violence, in violation of Article 128b, UCMJ. R. at 27-28, 142-143; App. Ex. XIV. Pursuant to the plea agreement, one Charge with one Specification of obstruction of justice, in violation of Article 131b was withdrawn and dismissed with prejudice. R. at 133-134. The military judge sentenced Appellant to be reprimanded, to be confined for a total of forty months,² and to be dismissed from the service. R. at 375-376.

¹ There are two named victims in this case: AF and SF.

² Appellant was credited with 197 days of pretrial confinement credit. R. at 375-376.

Statement of Facts

Based on acts of assault consummated by a battery and domestic violence as described in a stipulation of fact, Maj Fundis entered into a plea agreement under which any sentence to confinement would be based upon an agreed upon table. Pros. Ex. 1, App. Ex. XIV. He did not agree that a dismissal must be adjudged. The military judge adjudged a sentence of forty months of confinement, a dismissal, and a reprimand. R. at 375-376. The sentence to confinement did not exceed the potential maximum confinement for each offense found in the pretrial agreement. App. Ex. XIV.

At the sentencing phase of the trial, the Defense argued that Maj Fundis should face adverse administrative discharge action in lieu of receiving a dismissal. R. at 369-370. This argument was based upon his record of combat military service, a PTSD diagnosis, family deaths, and other related stressors that heavily impacted his relationships with his wives. R. at 365-366. When combined with his expressions of remorse, his acceptance of responsibility, his role as a loving father, and the loss of multiple close family members in a short period of time, a sentence to dismissal constituted excessive punishment. R. at 367-369.

Prior to trial, Maj Fundis sought treatment for the mental anguish he had been experiencing. As the Defense argued, “ he’s been diagnosed properly, he’s on medication . . . He recognized he had a problem, on his own he got help . . . and he is a different person.” R. at 368. The Defense conceded that some form of adverse administrative discharge action was appropriate, but that the severity of a punitive discharge was too great when the totality of the mitigating factors are considered. R. at 369-370. There is no lesser punitive discharge available in officer cases as exists in cases with enlisted members, i.e., a bad conduct discharge.

The unsworn statement made by Maj Fundis details multiple stressors he experienced in the years that the offenses occurred. R. at 326-348. These not only included his combat service but the loss of his brother and his parents. R. at 334-336. His attempts to get mental health treatment and therapy are addressed in his mental health records. Def. Ex. H, I, and J. It is impossible to summarize the full extent of what he experienced. This brief cannot adequately capture the range and nature of these stressors at the times the offenses occurred. His unsworn testimony and the Defense sentencing exhibits must be read to fully appreciate the debilitating impact of these stressors on his mental health.

Argument

Assignment of Error

The portion of the sentence providing for a dismissal is inappropriately severe.

A. Standard of Review

This Court reviews de novo the appropriateness of an appellant's sentence. *United States v. Cabuhat*, 83 M.J. 755, 770 (A.F. Ct. Crim. App. 2023) (en banc), *petition denied*, 84 M.J. 275 (C.A.A.F. 2024).

B. Law and Analysis

This case—in which every finding of guilty was for an offense occurring between 1 July 2020 and 29 October 2023—is subject to this Court's sentence appropriateness review authority under the version of Article 66(d)(1), UCMJ, enacted by section 542(b) of the William M. (Mac) Thornberry NDAA FY 2021, Pub. L. No. 116-283, 134 Stat. 3388, 3611 (2021).³ Under that

³ The amendment of Article 66 enacted by section 539E of the NDAA for FY 2022, Pub. L. No. 117-81, § 539E, 135 Stat. 1541, 1700 (2021), applies only to cases in which all findings of guilty are for offenses occurring after December 27, 2023. *Id.* at § 539E(f), 135 Stat. at 1706. Hence, that amendment is inapplicable to this case. The amendment of Article 66 enacted by section 544

standard, 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.” *Id.* at § 542(b), 134 Stat. at 3611.

Both Congress and the President have directed that the punishment imposed by a court-martial “shall” be “sufficient, but not greater than necessary, to promote justice and to maintain good order and discipline in the armed forces.” UCMJ art. 56(c)(1), 10 U.S.C. § 856(c)(1); Rule for Courts-Martial (R.C.M.) 1002(f), *Manual for Courts-Martial, United States (MCM)* (2019 ed.). Article 56(c)(1) and R.C.M. 1002(f) are phrased in the imperative. That direction was first introduced into the UCMJ by the Military Justice Act of 2016. NDAA for FY 2017, Pub. L. No. 114-328, § 5301, 130 Stat. 2000, 2919 (2016).⁴ President Trump, acting under both delegated authority from Congress and his constitutional authority as President of the United States, added that concept to the R.C.M.s via a 2018 executive order. Exec. Order No. 13825 of March 1, 2018, 83 Fed. Reg. 9889, 9889, 10014 (Mar. 8, 2018).

In this case, where the sentence includes confinement for forty months, a dismissal is not “necessary” to promote justice or to maintain good order and discipline in the armed forces. It is, therefore, inappropriately severe.

The word “necessary” as used in both Article 56(c)(1) and R.C.M. 1002(f) means “essential.” *Necessary*, BLACK’S LAW DICTIONARY (12th ed. 2024).⁵ It is not “essential” to either

of the James M. Inhofe NDAA for FY 2023 did not affect subsection (d)(1). Pub. L. No. 117-263, § 544, 136 Stat. 2395, 2582 (2022).

⁴ The Military Justice Act of 2016 is division E of the NDAA for FY 2017. NDAA for FY 2017, Pub. L. No. 114-328, § 5001, 130 Stat. at 2894.

⁵ *See also* Merriam-Webster online, defining “necessary” as “absolutely needed : REQUIRED.” Merriam-Webster.com/dictionary/necessary, last accessed 6 Oct. 2025; *Necessary*, 10 OXFORD ENGLISH DICTIONARY (2d ed. 1989) (“Indispensable, requisite, essential, needful; that cannot be done without.”).

promote justice or maintain good order and discipline that Maj Fundis' sentence include confinement for forty months and a dismissal rather than confinement for forty months. The latter sentence would still constitute severe punishment. As the Defense argued at trial, Maj Fundis was subject to being administratively discharged based upon his conviction, so the failure to adjudge a punitive discharge did not mean he would remain on active duty.

Both the applicable version of Article 53(c)(1) and R.C.M. 1002(f) identify four factors to consider in determining what sentence is "sufficient, but not greater than necessary, to promote justice and to maintain good order and discipline in the armed forces." The first factor is "the nature and circumstances of the offense and the history and characteristics of the accused." UCMJ art. 56(c)(1)(A); R.C.M. 1002(f)(1). While Maj Fundis' offenses were unquestionably serious, they do not make a dishonorable discharge "necessary." A dismissal, comparable to a dishonorable discharge, is a severe punishment. R.C.M. 1003(b)(8)(C). Because a less punitive discharge is not available for officers, the only real alternative is an adverse administrative discharge.

The second factor is "the impact of the offense on . . . the financial, social, psychological, or medical well-being of any victim of the offense" and on "the mission, discipline, or efficiency of the command of the accused and any victim of the offense." UCMJ art. 56(c)(1)(B); R.C.M. 1002(f)(2). It cannot be fully known how a punitive discharge impacts a victim. It obviously limits the potential employment opportunities and support an accused can provide his family and ex-spouses.

The third factor is the need for the sentence to reflect the seriousness of the offense; promote respect for the law; provide just punishment for the offense; promote adequate deterrence of misconduct; protect others from further crimes by the accused; rehabilitate the accused; and provide, in appropriate cases, the opportunity for retraining and returning to duty to meet the needs

of the service. UCMJ art. 56(c)(1)(C); R.C.M. 1002(f)(3). Particularly when coupled with forty months of confinement, a dismissal rather than an adverse administrative discharge is not “necessary” to reflect the seriousness of the offense. The deprivation of liberty for forty months, in itself, appropriately reflects the seriousness of the offense. It is not “necessary” to couple that deprivation of liberty with a dismissal rather than an adverse administrative discharge to reflect the offenses’ seriousness.

Nor is a dismissal “necessary” to “promote respect for the law”—a goal that the confinement portion of the sentence alone accomplishes, or to provide a just punishment. Had the military judge adjudged a sentence of confinement for forty months alone, it would have been viewed as an appropriately severe, just sentence. A dismissal does nothing to protect others from further crimes by Maj Fundis, a goal that was served by the confinement portion of the sentence but that was also furthered by the considerable steps Maj Fundis had already taken toward rehabilitation before his trial. R. at 326-348, Def. Ex. H, I, J. Imposing a punitive discharge is not reasonably related to Maj Fundis’ rehabilitation; a dismissal rather than an administrative discharge is certainly not “necessary” to achieve that goal.

The final factor looks at “the sentences available” at a court-martial. UCMJ art. 56(c)(1)(D); R.C.M. 1002(f)(4). A dismissal was an “available” sentence. It is not “necessary” for purposes of this factor because of the adverse administrative discharge action accompanied by lengthy confinement were viable options that could be pursued post-conviction.

The portion of the sentence providing for a dismissal violates Article 56(c)(1) and R.C.M. 1002(f). A sentence imposed in violation of those provisions’ “not greater than necessary” edict is not “correct in law” and, therefore, may not be affirmed upon review under the applicable version of Article 66(d)(1)(A). Art. 66(d)(1)(A), UCMJ, 10 U.S.C. § 866(d)(1)(A) (“The 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.”).

This Court should, therefore, only affirm a sentence of confinement for forty months and a reprimand.

Respectfully submitted,

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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 Air Force Government Trial and Appellate Operations Division on 15 October 2025.

Respectfully submitted,

[REDACTED]

Frank J. Spinner
Attorney at Law

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	ANSWER TO ASSIGNMENT OF ERROR
)	
v.	)	Before Panel No. 1
)	
Major (O-4)	)	No. ACM 40689
WILLIAM J. FUNDIS)	
United States Air Force)	
<i>Appellant.</i>	)	14 November 2025

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

ISSUE PRESENTED

**WHETHER APPELLANT’S SENTENCE ADJUDGING A
DISMISSAL IS INAPPROPRIATELY SEVERE**

STATEMENT OF CASE

The United States generally agrees with Appellant’s statement of the case.

STATEMENT OF FACTS

Facts

CHARGE I: Specification 2, Violation of the UCMJ, Article 128¹
(Appellant Slapping AF between on or about 1 July-31 August 2020)

Appellant met AF while attending college in Texas in 2005. (Pros. Ex. 1.) They began dating and married shortly thereafter in 2009. (Id.) Between on or about 1 July 2020 and on or about 31 August 2020, Appellant and AF went to an Airbnb in Clarksville, Tennessee. (Pros. Ex. 1 at 2.) According to AF, a recurring theme within their marriage was Appellant questioning

¹ The specifications on the Charge Sheet and the Stipulation of Fact are not numbered chronologically. Both begin with Specification 1, which occurred after the conduct charged in Specification 2. (*Entry of Judgment*, Record of Trial (ROT), Vol. 1; Pros. Ex. 1.).

her dating activity as a teenager prior to her meeting Appellant. (R. at 156.) AF indicated that Appellant continued to question her about her teenage dating activity despite the them being married and having children together. (Id.) According to AF, Appellant termed his questioning “retroactive jealousy.” (Id.) AF also described how many of their arguments began from “seatbelt conversations—” “[Appellant’s] code word for preparing [AF] to have a difficult conversation, where [Appellant] would interrogate [AF] about [her] previous relationships.” (Id.) During their stay, Appellant continued to question AF about her past relationships, but she could not remember. (R. at 158.) Thinking AF was deliberately withholding information, Appellant lunged and attacked her. (Id.) AF described Appellant’s assault as “suffocating,” further stating, “I just remember him [] like, engulfing me. I couldn’t move and . . . [he was] pinning me down, and I couldn’t move my arms. And I – I just couldn’t move away from him.” (Id.) Appellant then slapped AF in the face. (Pros. Ex. 1 at 2; R. at 158-159.) According to AF, the assault felt like it lasted for 5 minutes. (R. at 159.) As a result of Appellant’s assault, AF suffered damage to the cartilage in her right ear and sustained bruising on her lip and chin. (Pros. Ex. 1 at 2; R. at 159.) AF took photographs of her injuries. (Pros. Ex. 1 at 14.)

CHARGE I: Specification 1, Violation of the UCMJ, Article 128
(Appellant Pushing AF and Placing His Knee on Her Chest on 24 December 2021)

AF testified that Appellant forcibly placed his knee on her chest on 24 December 2021. (R. at 163.) AF indicated that Appellant was upset because she refused to be intimate with him due to his past infidelity. (R. at 163-164) AF testified that after she told Appellant, “I just can’t trust that you will be faithful,” “[Appellant] grabbed [her] by the arm and started yelling in [her] ear.” (R. at 164.) Appellant then pushed AF into the master closet and tackled her. (Id.) AF testified that she tried to put her arms up, but Appellant climbed on top of her, placed his knee on

her chest and slapped her.² (Id.) AF described feeling immense pressure and weight and an inability to move. (Id.) AF sustained bruising as a result of Appellant’s actions but was easily able to conceal her bruising with a shirt because the bruising was on her chest and arm. (R. at 165.) AF took photographs of her injuries. (Pros. Ex. 1 at 10.) Appellant confirmed during his assault that “[AF] was not acting aggressive in any way, when [he] pushed her to the ground and pinned her down.” (Id.) Appellant testified he lost his temper, and his actions were intentional. (R. at 49.)

CHARGE II: Specification 3, Violation of the UCMJ, Article 128b
(Appellant Grabbing AF by the Neck on 5 February 2022)

On 4-5 February 2022, while their divorce was imminent, Appellant and AF spent time together for AF’s birthday. (R. at 55.) Appellant drove to AF’s dorm at Holloman Air Force Base, New Mexico and picked her up in a rental car.³ (R. at 55-56.) The parties also reserved a hotel room in Las Cruces, New Mexico, two hours away. (R. at 56.) On 5 February 2022 after having dinner and drinks, AF told Appellant her stomach hurt, and she wanted to go back to their hotel. (R. at 56; R. at 167.) Ignoring her discomfort, Appellant suggested they “shoot pool or throw darts or something” instead. (R. at 56.) Annoyed at Appellant ignoring her discomfort, AF called Appellant “Mr. Party Hearty.” (R. at 57; R. at 167.) According to AF, Appellant immediately “slammed on the brakes in the middle of the lane,” pulled into a gas station parking lot, placed the car in park, and begin pointing in her face and calling her names. (R. at 168.) AF then exited the vehicle without shutting the door and went inside the gas station. (R. at 57; R. at

² Appellant testified to placing his knee on her chest, only, stating, “[AF] tried to walk through me [] to get away from me, and I shoved her to the ground. And I pinned her with my knee. (R. at 44.)

³ AF joined the Air Force as a traditional reservist in June 2020, and Appellant swore her in. (R. at 155.)

168.) Upon exiting the gas station, Appellant approached AF and the parties argued again. (R. at 168.) According to AF, Appellant expressed disdain at being called Mr. Party Hearty, which prompted her to tell him to “grow a pair.” (Id.) AF then told Appellant “F-U again” and as a result, Appellant lunged at her with one hand, grabbed her around her neck, and put his face close to hers. (Id.)

Appellant indicated he wanted to get the situation over without looking “like [he] was abducting [AF]” so he “grabbed [AF] and pulled her close, by [] the back of the neck, in a trap, and with [his] right hand . . . secured her arm.” (R. at 57-58.) Appellant stated, “I wanted it to look like we were just a couple and just holding close.”⁴ (R. at 58.) Appellant clarified that he used his left hand, reached behind AF’s neck, grabbed her to get a solid grip, and then forcefully pulled her towards him. (R. at 61.) Appellant stated, “I wanted to be able to control her body movement. So, I took control of her head []” (Id.) Appellant emphasized that he exerted control, used excessive force when grabbing AF, and he was aware of the amount of force he was using because AF was “resisting and pulling away.” (R. at 64.) Appellant indicated AF’s resistance caused him to exert more force, and AF did not want to come with him. (Id.) Appellant deemed AF’s resistance unacceptable. (Id.) While controlling her neck, Appellant asked AF “Does that hurt?” (Id.) When AF tried to respond, Appellant said “Good. Motherfucker,” and “grabbed [AF] with his second hand and squeezed even harder.”⁵ (R. at 168-169.) As a result of

⁴ Charge II: Specification 3, Violation of the UCMJ, Article 128b. The charged conduct in Specification 3 occurred earlier in the day than the charged conduct in Specifications 1 and 2 on 5 February 2022.

⁵ AF and trial counsel performed a physical demonstration during her direct testimony. When describing the physical demonstration, trial counsel stated, “the witness grabbed . . . underneath my chin, high up on my neck, and applied an upward pressure, then added her second hand to the side of my neck and added increased pressure.” (R. at 171.)

Appellant's actions, AF experienced pain in her throat, ears, spine, and a headache. (R. at 171.) Appellant confirmed his actions were intentional and upon loosening his grip, "[AF] spun away from [him] and immediately ran back into the gas station." (R. at 58; R. at 61.)

CHARGE II: Specification 1 and Specification 2, Violation of the UCMJ, Article 128b
(Appellant Punched AF in the Face (Specification 1) and Kicked AF in the Buttocks
(Specification 2) on 5 February 2022)

AF then called an Uber which took her back to the hotel. (R. at 58; R. at 172.) Appellant followed closely behind the Uber and upon arriving back at the hotel, tried to reenter the room, but it was locked. (Id.) AF eventually allowed Appellant into the hotel room to pack his belongings so he could leave, but the parties continued to argue. (R. at 59; R. at 173-175.) Upon AF mentioning a former co-worker during their argument, Appellant became angry. (R. at 175.) AF testified that "at that point . . . [it] happened very quickly. [Appellant] somehow got from over by the beds, over to where I was, extremely quickly." (Id.) Appellant then grabbed AF's duffle bag, threw it across the room, overturned the coffee table, and lunged at [] [her]. (Id.) Appellant then struck AF on the side of the face, grabbed her hair, and pulled her down. (Id.) AF testified that she felt like her spine was compressed because her chin was jammed into her chest when Appellant forcefully pulled her forward. (R. at 175-176.) Upon hitting the floor, Appellant kicked AF in the buttocks multiple times. (R. at 176.)

According to Appellant, he attempted to walk out of the room, but AF pursued him. (R. at 60; R. at 67; R. at 70.) Appellant stated, "I turned around to her one last time, and [AF] was very close to me, with her hands up, and I grabbed her wrists, somewhat instinctually, and I shoved her back, as I was holding her wrists." (R. at 60.) Describing his actions in more detail, Appellant said:

I was a college linebacker, much like a linebacker would shove a lineman to create separation. I had her wrists in my hands, and I

shoved her back forcefully, propelling her hands and mine into her face area. I gave her at least one hard shove, possibly another. And when she hit the ground, I was still so upset that I -- I kicked her in the butt, at which time she was screaming mad. And I cussed at her and turned around and left that -- that hotel room.

(R. at 60; R. at 66-69.) (emphasis added) However, according to the Stipulation of Fact, “[Appellant] punched [AF] in the face with his fist,” and he left the hotel only after AF begin screaming. (Pros. Ex. 1 at 3.) Unbeknownst to Appellant, during the incident, AF called the police but hid the phone by her side to prevent Appellant from discovering she was seeking help. (R. at 176-177; Pros. Ex. 1 at 3.) The police responded to the call, but when they arrived, AF failed to mention the assault. (Pros. Ex. 1 at 3.)

Immediately after Appellant’s assault, AF took photographs of her injuries. (Id.) The photographs revealed bruising near her eye, neck, and scratches on her upper chest. (Pros. Ex. 1 at 3, 19) AF testified the most visible bruises on her buttocks were easy to mask, “the scratches on [her] neck weren’t overly noticeable in uniform,” but “[she] had a pretty severe black eye that went up into [her] temple” that was “impossible to cover up.” (R. at 178-179.) Additional photographs taken by AF of her injuries on 7-8 February 2022, two days after Appellant’s assault, revealed her bruising remained. (R. at 178-179; Pros. Ex. 1 at 21-23.)

ADDITIONAL CHARGE: Specification 2, Violation of the UCMJ, Article 128b
(Appellant Grabbing SF by Her Hands and Pinning Her Down with His Body on 23 December 2022)

In September 2022, Appellant and SF began dating. (Pros. Ex. 1 at 3.) Charges were preferred against Appellant for assaulting AF on 15 December 2022. (*Entry of Judgment*, ROT, Vol. 1) Seven days later, on or about 23 December 2022, Appellant took SF to his sister’s home in Gilbert, Arizona to meet his family for the first time. (R. at 80.) According to Appellant, he went upstairs to his sister’s guest bedroom after becoming upset by a comment made by SF. (R.

at 81.) Appellant purposefully locked the door so SF would have to knock to enter because Appellant wanted to ensure the parties discussed the comment when she entered. (Id.) As a result of Appellant locking SF out of the room, the parties began to argue, and SF told Appellant she no longer wanted to be in a relationship. (Id.) In response, Appellant “grabbed SF by her arms and threw her [on] the bed. (Id.) Appellant then pinned SF down on the bed with his body while screaming at [her].” (Pros. Ex. 1 at 4; R. at 81; R. at 83.) Appellant confirmed SF was “visib[ly] scared, and she told [him] to stop.” (R. at 84.) Appellant confirmed his assault was intentional. (Id.)

ADDITIONAL CHARGE: Specification 3, Violation of the UCMJ, Article 128b
(Appellant Grabbing SF by Her Hands and Pinning Her Down with His Hands on Her Wrists on 5 May 2023)

On or about 5 May 2023, Appellant and SF went to Myrtle Beach, South Carolina for his biological daughter’s cheer competition. (R. at 86-87.) The parties began arguing and as a result, SF took off her engagement ring and tossed it in their room. (R. at 87.) SF told Appellant to stay away from her, “but [Appellant] got on top of her, on the bed, and pinned her down, and continued to argue with her.” (R. at 87.) Describing his assault in greater detail, Appellant stated, “I [] controlled her by pushing her with my hands on her shoulders, upper arms, moving her legs out of the way so that I could maneuver and to pin her down.” (R. at 89.) Despite SF repeatedly asking Appellant not to touch her and to keep his distance, Appellant continued to pin SF down. (Id.) Appellant’s assault lasted almost two minutes. (R. at 89-90.) When asked to describe the reason for his assault, Appellant stated, “I was very upset . . . at my perception that she wanted to end the marriage.” (R. at 89; Pros. Ex. 1 at 5.) Appellant confirmed his assault was intentional. (R. at 90.)

ADDITIONAL CHARGE: Specification 4, Violation of the UCMJ, Article 128b
(Appellant Grabbing and Pulling SF by Her Hair on 19 May 2023)

On 17 May 2023, Appellant and SF were married. (R. at 87.) Two days later, on 19 May 2023, the parties went to SF's parent's house near Wesley Chapel, Florida. (R. at 92.) According to Appellant, this was the first time the parties confirmed their marriage to her parents. (Id.) Shortly thereafter, the parties begin arguing about the length of time it took Appellant to return to the upstairs bedroom after checking on the health of his daughter. (R. at 93). Appellant stated, "It upset me and I started arguing pretty aggressively with her . . . I think I had already -- I had pushed her back down on the bed, and she told me that she wanted an annulment. And, it's at that point, I got violent. I got extremely pissed." (Id.) Appellant then grabbed SF's upper arm, through her hair in order to "force her to go downstairs and [] have a discussion with her parents about [the annulment]." (Id.) Describing his grip on SF's hair, Appellant stated, "I chose to continue the grip, which was pulling her hair, and force[d] her to go down the stairs with me to confront her parents." (Id.) Appellant also stated, "I very easily could have let go of her hair to give her that comfort, but I didn't. I continued to be aggressive and disrespectful to her." (R. at 95.) Appellant confirmed his assault was intentional. (R. at 96.)

ADDITIONAL CHARGE: Specification 6, Violation of the UCMJ, Article 128b
(Appellant Grabbing SF, Pinning Her Down with His Body, Pulling Her Cheek with His Fingers, and Striking Her Face with His Head on 7 July 2023)

Two months later, on 7 July 2023, Appellant and SF attended a retreat as part of a unit outing in Clarksville, Tennessee. (R. at 99.) The parties began arguing again, and SF expressed that she wanted to sleep in the room with her daughters rather than with Appellant. (R. at 99.) The next day, SF saw some matters on Appellant's phone that upset her and after confronting him, requested the keys so she could leave. (R. at 100.) SF expressed that she wanted to end their relationship. (Id.) At that point, Appellant stated, "I pinned [SF] down on the bed, and

forcefully took the keys from her. And as she was arguing with me, I kept her pinned down. She was yelling at me and then thrashing her head around.” (R. at 100-102) Appellant indicated he used his “head to keep her head still,” stating, “in essence, I struck her with my head, agitating her eye. And I continued to hold her down until she was somewhat calm.” (R. at 100; R. at 104.) As a result of Appellant’s actions, SF began screaming, so Appellant covered her mouth with his hand, while continuing to pin her down. (R. at 100.) SF continued to resist, so Appellant placed his fingers inside her mouth and forcefully pulled her cheek, using a technique similar to “fish hooking.” (R. at 102-103.) According to Appellant, the entire incident lasted five to ten minutes. (R. at 105.) Immediately thereafter, SF took photographs of her injuries which revealed bruising on her eye and arm. (Pros. Ex. 1 at 6, 26-28.)

ADDITIONAL CHARGE: Specification 9, Violation of the UCMJ, Article 128b
(Appellant Grabbing SF’s Body on 29 October 2023)

On 29 October 2023, Appellant and SF attended a Cowboys game in Arlington, TX. (R. at 108.) While returning from the game, the parties began arguing in the car. (R. at 110.) As a result, SF told Appellant she wanted him to move out. (Id.) Due to Appellant’s inability to control his emotions, Appellant scared SF to the point that she attempted to exit the vehicle at a red light. (R. at 110; Pros. Ex. 1 at 6.) To prevent her from exiting the vehicle, Appellant grabbed SF by her clothing. (R. at 112.) SF then attempted to exit the vehicle through the backseat, but Appellant restrained her again and prevented her from exiting. (R. at 110.) While testifying, Appellant acknowledged that during the assault, he was emotionally charged, violent, and aggressive. (R. at 110-111.) SF then struck Appellant which left a cut above his eye. (R. at 111.) Appellant confirmed that “[SF] was scared, and she wanted to be away from [him].” (R. at 113.) Appellant confirmed his assault was intentional. (Id.)

ARGUMENT

APPELLANT’S ADJUDGED DISMISSAL FOR ASSAULTING TWO INTIMATE PARTNERS IS NOT INAPPROPRIATELY SEVERE.

Additional Facts

The maximum punishment authorized by law based upon Appellant’s guilty plea was a reprimand, 32 years of confinement, total forfeiture of all pay and allowances, and a dismissal. (R. at 120.) Per Appellant’s plea agreement, Appellant’s total confinement was not to exceed four years, and Appellant was subject to a dismissal (App. Ex. XIV.)

Standard of Review

This Court reviews issues of sentence appropriateness de novo. United States v. McAlhaney, 83 M.J. 164, 167 (C.A.A.F. 2023) (citing United States v. Lane, 64 M.J. 1, 2 (C.A.A.F. 2006)).

Law & Analysis

This Court may only affirm 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. Article 66(d)(1), UCMJ.⁶ Sentence appropriateness is assessed “by considering the particular appellant, the nature and seriousness of the offense[s], the appellant’s record of service, and all matters contained in the record of trial.” United States v. Sauk, 74 M.J. 594, 606 (A.F. Ct. Crim. App. 2015) (en banc) (per curiam) (alteration in original) (citation omitted). However, this Court is “not authorized to grant mercy.” United States v. Nerad, 69 M.J. 138, 146 (C.A.A.F.

⁶ The government agrees with Appellant that the amendment to Article 66(d)(1) enacted by section 539E of the National Defense Authorization Act for Fiscal Year 2022, Pub. L. No. 117-81, § 539E, 135 Stat. 1541, 1700 (2021) does not apply to this case. (App. Br. at 3, n.3.)

2010)). “Absent evidence to the contrary, [an] accused's own sentence proposal is a reasonable indication of its probable fairness to him.” United States v. Cron, 73 M.J. 718, 736 n.9 (A.F. Ct. Crim. App. 2014) (quoting United States v. Hendon, 6 M.J. 171, 175 (C.M.A. 1979) (citation omitted)).

Here, Appellant only challenges his dismissal as inappropriately severe and contends this Court should only affirm his “sentence of confinement for forty months and a reprimand.” (App. Br. at 7.) Based upon Appellant’s conduct and the entire record, this Court should decline Appellant’s invitation.

1. Appellant’s Circumstances

Appellant delivered an unsworn statement in question and answer format with his civilian defense counsel. During Appellant’s unsworn statement, he testified that his oldest brother, father, and mother passed away within a few months of each other. (R. at 334-336.) Appellant attributed his assault of SF to his emotional state and what his therapist termed, “the trauma nerve of abandonment.” (R. at 339.) Appellant stated that prior to being placed into pretrial confinement, he sought assistance from the Unit Clinical Therapist, an Inflight Counselor, and church members. (R. at 340.) Appellant also indicated, while in pretrial confinement, that he took a Domestic Violence course recommended by SF, received inpatient and outpatient treatment, followed by five weeks of cognitive therapy, and 12 weeks of trauma sessions.⁷ (R. at 340-341.) According to Appellant, he suffers from depressive disorder and post-traumatic stress. (R. at 342.) While informative, Appellant’s use of mental health resources should not excuse the trauma he inflicted across multiple families. This is particularly true when Appellant had access

⁷The military judge reopened the care inquiry and Appellant confirmed that no mental health condition prevented him from appreciating or controlling the nature of his actions. (R. at 351.)

to, and used some of these resources prior to his pretrial confinement, with no success. (R. at 340.) Here, Appellant confirmed that he made a choice to be angry and violent. (R. at 341.) Appellant's actions were intentional, specific, and designed to assert control over his spouses. This factor must weigh in favor of the government.

2. The Nature and Seriousness of the Offenses

The Impact of Appellant's Conduct on AF

Appellant physically assaulted two intimate partners on multiple occasions, and his physical assaults left lasting physical and psychological impact on both. When asked to describe her lingering injuries from the February 2022 assault, where Appellant assaulted AF over her birthday weekend in Las Cruces, New Mexico, AF testified that when she attempts to swallow, she constantly feels a lump in her throat as if she is about to cry, even when she does not feel emotional. (R. at 186.) AF testified, "I occasionally still have ringing in my ears. I get headaches. My jaw gets very tight and then, I get [] inner ear pain, and then a headache." (R. at 187; R. at 273.) AF also described how her physical therapy appointments consist of the therapist placing her fingers in AF's mouth around her tongue to loosen her jaw so that she can move her head easier. (R. at 187.) During these sessions, AF typically drools over herself and feels very tired immediately thereafter. (Id.) Generally, her relief only lasts for two weeks before her jaw tightens again. (R. at 187; R. at 273.)

LH, a medical forensic nurse, also testified concerning AF's lingering injuries. (R. at 211-230.) As a recognized expert in forensic nursing with a specialty in strangulation and intimate partner violence, LH testified that she reviewed AF's radiology report, which indicated that she suffered from a "chronic displaced fracture of the hyoid bone." (R. at 217-220.) LH testified that a hyoid bone is located where the chin meets the neck and "[it] is connected to some

muscles and tendons and cartilage that help support [and] aid in [] speaking and swallowing . . .” (R. at 222.) When asked about the significance of a broken hyoid bone, LH testified, “I’ve seen it *twice*, in my career. I’ve probably done over 100 [exams] myself. I saw it once in a post-mortem examine. The patient [] died. And then I saw it once in . . . an attempted strangulation case.” (R. at 223; Pros. Ex. 7.) LH also testified, that during her training, she was assigned to the Marine Corps Martial Arts Program where she taught Marines how to protect and use the hyoid bone during an assault. (R. at 224-225.) When describing signs consistent with an individual suffering from a fractured hyoid bone, LH indicated an individual typically will experience pain swallowing, taking deep breaths, and turning their necks. (Id.) On cross-examination, LH indicated these symptoms generally occur immediately, or soon after the injury, and they were not listed in AF’s medical report from her 7 February 2022 visit. (R. at 225; R. at 229.) However, LH confirmed that AF’s symptoms are consistent with a broken hyoid bone, and the method and force used by Appellant—35 to 45 pounds of pressure—when grabbing AF’s neck, could result in a fractured hyoid bone. (R. at 226.)

During her unsworn victim impact statement, AF also provided additional evidence concerning the physical and psychological injuries she experienced from Appellant’s assault. AF indicated that she continues to think about her hyoid bone being the only broken bone in her body and feels grateful to be alive, considering “the bone is most commonly found post-mortem . . .” (R. at 273; Ct. Ex. B at 1-2.) AF also regularly takes the parties’ minor children to counseling to assist in developing healthy coping mechanisms and establish healthy boundaries. (R. at 273; Ct. Ex. B at 2.) AF indicated she does not want the parties’ minor children to believe “they must endure abuse, because speaking up about [the abuse] would be considered a betrayal to the abuser.” (Id.)

The Impact of Appellant's Conduct on SF

SF also gave an unsworn victim impact statement detailing the impact of Appellant's abuse. (Ct. Ex. A.) SF described that the person who inflicted pain on her "was not a stranger but someone [she] trusted" and "[s]omeone who was supposed to protect and love [her], [her] husband," an Air Force officer. (R. at 266.) SF recalled "gasping for air as [Appellant] shoved his hand down [her] throat" because Appellant "just wanted to fuck with [her]." (R. at 266; Ct. Ex. A at 1.) SF indicated her home, formerly a sanctuary, became a prison. (R. at 267; Ct. Ex. A at 1.) SF detailed how Appellant's abuse impacted every aspect of her life and that her "mental health is now in shambles." (Ct. Ex. A at 1.) When describing the impact on her children, SF indicated that she now has to explain why they vacated their home and the reason for her constant sadness and fear. (R. at 267-268.) SF ended her victim impact statement by imploring the Air Force "to send a clear message that such behavior is unacceptable and will not be tolerated by anyone, let alone an [officer] in the Air Force *whose job is to lead people and be an example for other soldiers.*" (R. at 268.) (emphasis added)

Accordingly, this Court should find that Appellant's sentence to a dismissal is not inappropriately severe. The military judge, as the sentencing authority, determined Appellant's consistent physical abuse, of two spouses, warranted a dismissal. The abuse of one intimate partner, alone, is sufficient to warrant a dismissal. Here, Appellant, while pending court-martial for abusing his first spouse, immediately begin abusing his second spouse. Given the nature and seriousness of Appellant's offenses, a dismissal is not inappropriately severe, and nothing in the record warrants overturning the military judge's determination. During his unsworn question and answer segment, Appellant indicated that he wanted to continue to serve, and he would prefer more confinement over a dismissal. (R. at 348.) The military judge listened, but based

upon the record, adjudged a dismissal, and his judgment was within the range of options available within the plea agreement.

While Appellant acknowledges his offenses were “unquestionably serious,” he still contends his dismissal was not necessary. (App. Br. at 6.) Appellant isolates and defines the word “necessary” while ignoring the clause immediately after “to promote justice and to maintain good order and discipline.” Further, Appellant advances no arguments sufficient for this Court to conclude that the interests of justice and good order and discipline are served by Appellant’s continued presence in the military. Essentially, Appellant only argues that “it is not necessary to couple [Appellant’s] deprivation of liberty with a dismissal rather than an adverse administrative discharge to reflect the offenses seriousness.” (App. Br. at 6.) However, “normally, there will not be only one sentence that is appropriate for a particular appellant.” United States v. Joyner, 39 M.J. 965, 966 (A.F.C.M.R. 1994). This principle is reflected here as Appellant’s argument reflects nothing more than a general disagreement with the sentence adjudged. Other than conclusory statements, Appellant fails to adequately address how Appellant’s dismissal violates Article 56(c)(1) or R.C.M. 1002(f). Appellant violently assaulted two spouses on multiple occasions, and absent more, this Court should not disturb the military judge’s sentencing and Appellant’s dismissal is not inappropriately severe.

During his sentencing argument, trial defense counsel also emphasized that an administrative discharge or Medical Evaluation Board, was more appropriate, in lieu of a dismissal. (R. at 369-370.) However, “sentencing arguments cannot include matter[s] not supported by the facts or [matters] the court is not justified in considering in determining the sentence.” United States v. Briggs, 69 M.J. 648, 650 (A.F. Ct. Crim. App. 2010). Further, this Court has consistently determined that “collateral consequences of a court-martial conviction

should not be the concern of the court-martial.” United States v. Friedmann, 53 M.J. 800, 803-04 (A.F. Ct. Crim. App. 2000). *See also Briggs*, 69 M.J. at 651 (finding that arguing administrative discharge alternatives to a punitive discharge is improper because such arguments, on collateral matters, “blurs the distinction between a punitive discharge and an administrative discharge.”) Here, Appellant requests that this Court also consider collateral matters improperly advanced before the trial court. This Court should decline and confine its analysis solely to Appellant’s record and *his* conduct.

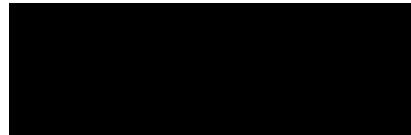
Appellant also asserts that his confinement, alone, is sufficient to promote respect for the law and his adjudged dismissal is not necessary to protect others from his potential crimes. (App. Br. at 6.) However, Appellant ignores that prior to his confinement and adjudged dismissal, Appellant refused to conform his conduct to the law or to his duties as an officer. Specifically, the record indicates that neither Appellant’s commitment as an officer nor his duty to his family was sufficient for Appellant to reassess his conduct. In fact, the record indicates Appellant began and continued abusing SF despite his pending court-martial. (*Entry of Judgment*, ROT, Vol. 1.) Appellant and SF began dating in September of 2022 and within three months, Appellant began abusing SF. (*Entry of Judgment*, ROT, Vol. 1; Pros. Ex. 1 at 4-5.) Appellant’s abuse occurred approximately seven days after charges were preferred for his abuse against AF on 15 December 2022. (*Charge Sheet*, ROT, Vol. 1) The record indicates that after the initial preferral, Appellant’s abuse not only continued, but escalated against SF.⁸ (Pros. Ex. 1 at 4-6.) Additionally, Appellant’s commander and senior enlisted leader both opined that Appellant possessed low rehabilitative potential. (R. at 237; R. at 248.)

⁸ Appellant placed his fingers inside SF’s mouth and pulled her cheek, using a technique similar to “fish hooking.” (R. at 102-103.) Recall Appellant’s testimony where he assaulted SF in the presence of her parents, two days after their marriage. (R. at 93.)

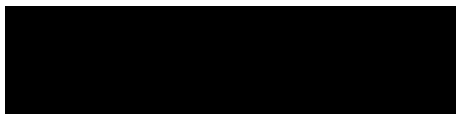
Appellant request for this Court to vacate his dismissal should be denied. Nothing in Appellant's brief affirmatively addresses or cites to specific cases which may aid this Court in determining whether Appellant's dismissal, based on *his* abuse of two spouses and *his* record, is inappropriately severe. Appellant's duties as a husband, father, and officer were insufficient to cease Appellant's abuse or to conform his conduct to minimal standards, let alone the standards imposed upon an officer and leader of Airmen. Based upon *his* conduct and record, this Court should find Appellant's dismissal is not inappropriately severe.

CONCLUSION

For these reasons, the United States respectfully requests that this Honorable Court deny Appellant's claims and affirm the sentence as correct in fact and law.



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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 November 2025.



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

UNITED STATES)	No. ACM 40689
<i>Appellee</i>)	
)	
v.)	
	)	NOTICE OF
William J. FUNDIS	)	PANEL CHANGE
Major (E-4))	
U.S. Air Force)	
<i>Appellant</i>)	

It is by the court on this 20th day of November, 2025,

ORDERED:

The record of trial in the above styled matter is withdrawn from a Panel 1 and referred to a Special Panel for appellate review.

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

GRUEN, PATRICIA A., Colonel, Senior Appellate Military Judge
BREEN, DANIEL J., Lieutenant Colonel, Appellate Military Judge
MORGAN, CHRISTOPHER S., Colonel, Appellate Military Judge

This panel letter supersedes all previous panel assignments.



FOR THE COURT



TANICA S. BAGMON
Appellate Court Paralegal

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	REPLY BRIEF ON BEHALF OF
<i>Appellee</i>	)	APPELLANT
)	
v.	)	Before a Special Panel
)	
Major (O-4)	)	No. ACM 40689
WILLIAM J. FUNDIS)	
United States Air Force	)	21 November 2025
<i>Appellant</i>)	

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

Appellant, Major (Maj) William J. Fundis, pursuant to Rule 18(d) of this Court’s Rules of Practice and Procedure, files this Reply to the Government’s Answer (Ans.), dated 14 November 2025. In addition to the arguments in his opening brief (Appellant’s Br.), Maj Fundis submits the following arguments for the issues below.

**THE PORTION OF THE SENTENCE PROVIDING FOR A DISMISSAL IS
INAPPROPRIATELY SEVERE.**

Additional Facts

At sentencing, the Defense presented the testimony of an expert witness, Dr. SL, regarding the cause of a hyoid bone fracture suffered by AF that allegedly occurred when Maj Fundis assaulted her on 5 February 2022. Dr. SL testified that when this type of injury occurs, “these are cases that appear in the Emergency Department” and that when AF “appeared in the primary care doctor or urgent care doctor’s practice, within days after the acute injury, she didn’t have the myriad of symptoms.” (R. at 314). The symptoms include, “emergency complaints of soreness, hoarseness, etcetera.” (Id.). They were not documented in the medical records, even though she was asked about them. (Id.). He further testified, “The only thing that did appear was a physical finding of bruising on the left side.” (Id.).

Dr. SL is “a physician and surgeon, with a specialty of ulnar laryngology, head and neck surgery.” (R. at 307). LH, the government’s expert, a medical forensic nurse, agreed that the symptoms which accompany such a fracture were not present when AB sought medical treatment for the injury. (R. at 225, 229, 314). In Dr. SL’s opinion, he “[could not] with a reasonable degree of certainty, meaning, more likely than not, . . . conclude that the February 2022 incident was what caused the hyoid bone fracture that was present in November 2022, on the CT scan.” (R. at 315).

The government claims that it was improper for the defense counsel to argue against adjudging a dismissal at sentencing. (Ans. at 15-16). However, the trial counsel did not object to the argument for an alternate disposition and the military judge did not indicate he would not consider it. (R. at 369-70).

Argument

The government did not charge Maj Fundis with aggravated assault based upon the evidence that AB suffered a hyoid bone fracture, yet on appeal, they have treated this injury as though they did. (R. at 54 (“assault consummated by a battery”), Ans. At 13-14). Given Dr. SL’s testimony, the evidence does not support the conclusion that the hyoid fracture was caused by Maj Fundis. To the extent that the sentence to a dismissal was based on the claim that he caused the fracture, this is further justification for concluding that the sentence to a dismissal is inappropriately severe.

With respect to the government’s argument that this Court may not consider any Defense argument addressing the possibility of an administrative discharge because it is a collateral consequence, this case can be distinguished from the court’s opinion in *United States v. Briggs*, 69 M.J. 648 (2010) (A.F. Ct. Crim. App. 2010). (Ans. at 15-16). That case involved an instruction given to court members which was not objected to by the defense counsel. (Id. at 649). Thus, this

Court determined that waiver applied. (Id. at 650). Furthermore, the instruction was given after the trial defense counsel made an argument referring to the possibility of an administrative discharge which was objected to by trial counsel. (Id. at 649).

In this case the trial counsel did not object to the argument and the military judge did not say he would not consider the argument. (R. at 369-70). Given the state of the record in this case and in light of the reasons why defense counsel argued against a dismissal, this Court may also consider this same argument on appeal.

Respectfully submitted,

[REDACTED]

FRANK J. SPINNER
Attorney at Law

[REDACTED]

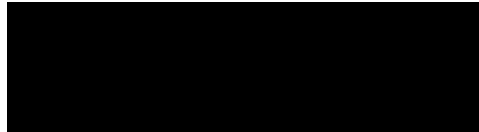
[REDACTED]

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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 21 November 2025.

Respectfully submitted,



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