

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

UNITED STATES)	No. ACM 40588
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Dominic C. HAYMOND II,)	
Airman (E-2))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 30 April 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 6th day of May, 2024,

ORDERED:

Appellant's Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error not later than **9 July 2024**.

Counsel should not rely on any subsequent requests for enlargement of time being granted. Each request will be considered on its merits. Counsel may request, and the court may order *sua sponte*, a status conference to facilitate timely processing of this appeal.

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. Counsel is not required to re-address item (1) in each subsequent motion for 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, will not be granted absent exceptional circumstances.



FOR THE COURT



OLGA STANFORD, Capt, USAF
Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES)	APPELLANT’S MOTION FOR
<i>Appellee</i>	)	ENLARGEMENT OF TIME (FIRST)
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force	)	30 April 2024
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a first enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **9 July 2024**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 50 days have elapsed. On the date requested, 120 days will have elapsed.

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

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF
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Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
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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 30 April 2024.

Respectfully submitted,

A large black rectangular box redacting the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
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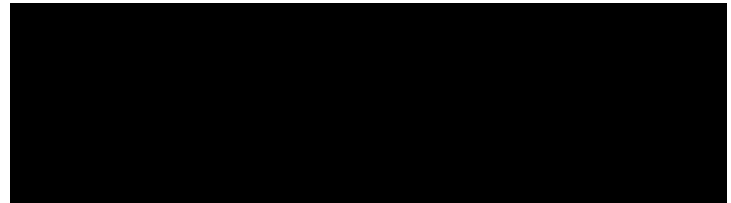
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman (E-2)	)	ACM 40588
DOMINIC C. HAYMOND II,)	
USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

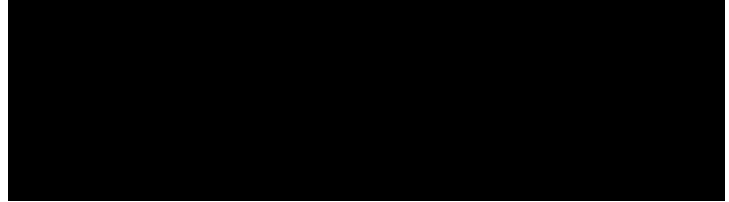
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



J. PETE FERRELL, 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 2 May 2024.



J. PETE FERRELL, Lt Col, USAF
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(240) 612-4800

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SECOND)
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,	)	28 June 2024
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a second enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **8 August 2024**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 109 days have elapsed. On the date requested, 150 days will have elapsed.

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 30 November 2023. The military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances for 20 months, to be confined for one year and eight months, and to be discharged from the service with a dishonorable discharge. R. at 688; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, dated 20 November 2023.

The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Appellant is currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was informed of his right to timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested second enlargement of time for good cause shown.

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
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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 28 June 2024.

Respectfully submitted,

A large black rectangular redaction box covering the signature area.

FREDERICK J. JOHNSON, Maj, USAF
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1 July 2024

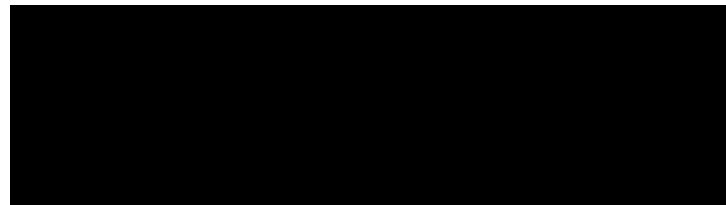
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman (E-2)	)	ACM 40588
DOMINIC C. HAYMOND II,)	
USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

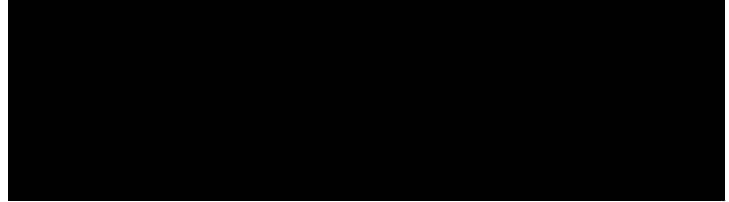
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



J. PETE FERRELL, Lt Col, USAF
Director of Operations
Government Trial and Appellate Operations Division
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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 1 July 2024.



J. PETE FERRELL, Lt Col, USAF
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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (THIRD)
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,	)	29 July 2024
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a third enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **7 September 2024**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 140 days have elapsed. On the date requested, 180 days will have elapsed.

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 30 November 2023. The military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances for 20 months, to be confined for one year and eight months, and to be discharged from the service with a dishonorable discharge. R. at 688; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, dated 20 November 2023.

The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Appellant is currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was not provided an update of the status of counsel's progress on Appellant's case since the last motion for enlargement of time, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested third enlargement of time for good cause shown.

Respectfully submitted,



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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 29 July 2024.

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
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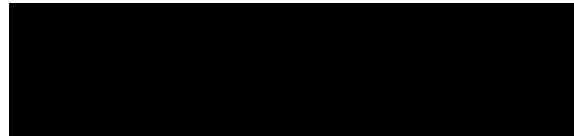
-IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman (E-2)	)	ACM 40588
DOMINIC C. HAYMOND II,)	
USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

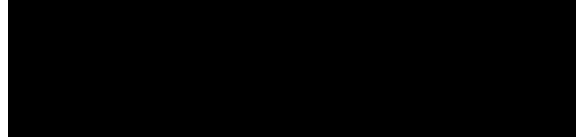
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 31 July 2024.



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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FOURTH)
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,	)	28 August 2024
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a fourth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **7 October 2024**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 170 days have elapsed. On the date requested, 210 days will have elapsed.

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 30 November 2023. The military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances for 20 months, to be confined for one year and eight months, and to be discharged from the service with a dishonorable discharge. R. at 688; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, dated 20 November 2023.

The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Appellant is currently confined.

Counsel is currently representing 23 clients; 14 clients are pending initial AOE's before this Court.¹ Eight matters currently have priority over this case:

- 1) *United States v. Casillas*, ACM 40499 – The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Undersigned counsel has reviewed approximately fifty percent of the record of trial in this case.
- 2) *United States v. Taylor*, ACM 40371 – The record of trial is six volumes consisting of six prosecution exhibits, one court exhibit, 12 defense exhibits, and 36 appellate exhibits; the transcript is 396 pages. Undersigned counsel is reviewing this Court's opinion and preparing for a potential petition for grant of review to the United States Court of Appeals for the Armed Forces (CAAF) in this case.
- 3) *United States v. Rodgers*, ACM 40528 – The record of trial is eight volumes consisting of three prosecution exhibits, one defense exhibit, and 39 appellate exhibits; the transcript is 199 pages. Undersigned counsel has begun reviewing the record of trial in this case.

¹ Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately fifty percent of the 14-volume record of trial in *U.S. v. Casillas*, ACM 40499; prepared and filed an 18-page reply to the government's answer in *U.S. v. Kershaw*, ACM 40455; completed his review of the four-volume record of trial and prepared and filed a 28-page AOE in *U.S. v. Cadavona*, ACM 40476; and began reviewing the eight-volume record of trial in *U.S. v. Rodgers*, ACM 40528.

- 4) *United States v. Zhong*, ACM 40411 – The record of trial is four volumes consisting of 14 prosecution exhibits, 11 defense exhibits, 12 appellate exhibits, and one court exhibit; the transcript is 482 pages. Undersigned counsel is reviewing this Court’s opinion and preparing for a potential petition for grant of review to the United States Court of Appeals for the Armed Forces (CAAF) in this case.
- 5) *United States v. Henderson*, ACM 40419 – The record of trial is five volumes consisting of ten prosecution exhibits, 21 defense exhibits, two court exhibits, and 25 appellate exhibits; the transcript is 937 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 6) *United States v. Ching*, ACM 40590 – The record of trial is five volumes consisting of nine prosecution exhibits, 29 defense exhibits, ten appellate exhibits, and one court exhibit; the transcript is 595 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 7) *United States v. Burkhardt-Bauder*, ACM 24011 – The record of trial is eight volumes consisting of five prosecution exhibits, 19 defense exhibits, 53 appellate exhibits, and one court exhibit; the transcript is 957 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 8) *United States v. York*, ACM 40604 – The record of trial is seven volumes consisting of five prosecution exhibits, two defense exhibits, 36 appellate exhibits, and one court exhibit; the transcript is 847 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant’s case. An enlargement of time is necessary to allow counsel

to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was not provided an update of the status of counsel's progress on Appellant's case since the last motion for enlargement of time, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested fourth enlargement of time for good cause shown.

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 Government Trial and Appellate Operations Division on 28 August 2024.

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
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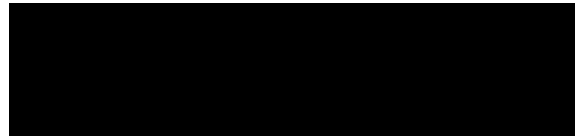
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman (E-2)	)	ACM 40588
DOMINIC C. HAYMOND II,)	
USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

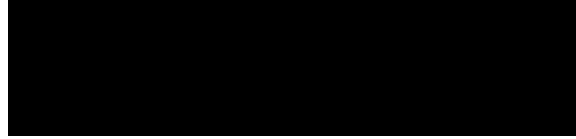
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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



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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FIFTH)
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,	)	30 September 2024
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a fifth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **6 November 2024**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 203 days have elapsed. On the date requested, 240 days will have elapsed.

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 30 November 2023. The military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances for 20 months, to be confined for one year and eight months, and to be discharged from the service with a dishonorable discharge. R. at 688; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, 20 November 2023.

The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Appellant is currently confined.

Counsel is currently representing 27 clients; 15 clients are pending initial AOE's before this Court.¹ Six matters currently have priority over this case:

- 1) *United States v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF – The record of trial is six volumes consisting of six prosecution exhibits, one court exhibit, 12 defense exhibits, and 36 appellate exhibits; the transcript is 396 pages. Undersigned counsel has petitioned the CAAF for a grant of review and is drafting the supplement to the petition in this case.
- 2) *United States v. Rodgers*, ACM 40528 – The record of trial is eight volumes consisting of three prosecution exhibits, one defense exhibit, and 39 appellate exhibits; the transcript is 199 pages. Undersigned counsel has reviewed approximately sixty percent of the record of trial in this case.
- 3) *United States v. Zhong*, ACM 40411 – The record of trial is four volumes consisting of 14 prosecution exhibits, 11 defense exhibits, 12 appellate exhibits, and one court exhibit; the transcript is 482 pages. Undersigned counsel is reviewing this Court's

¹ Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately thirty percent of the 14-volume record of trial and prepared and filed a motion for remand in *U.S. v. Casillas*, ACM 40499; reviewed approximately fifty-five percent of the eight-volume record of trial in *U.S. v. Rodgers*, ACM 40528; and prepared and filed a petition for grant of review with the United States Court of Appeals for the Armed Forces (CAAF) and began drafting the supplement to the petition in *U.S. v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF. Additionally, counsel was off for the Labor Day holiday, was on leave on 13 and 17–25 September 2024, and attended the Joint Appellate Advocacy Training on 26–27 September 2024.

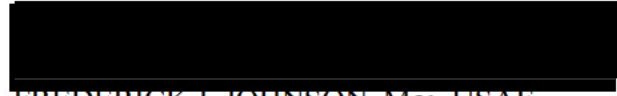
opinion and preparing for a potential petition for grant of review to the United States Court of Appeals for the Armed Forces (CAAF) in this case.

- 4) *United States v. Henderson*, ACM 40419 – The record of trial is five volumes consisting of ten prosecution exhibits, 21 defense exhibits, two court exhibits, and 25 appellate exhibits; the transcript is 937 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 5) *United States v. Burkhardt-Bauder*, ACM 24011 – The record of trial is eight volumes consisting of five prosecution exhibits, 19 defense exhibits, 53 appellate exhibits, and one court exhibit; the transcript is 957 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 6) *United States v. York*, ACM 40604 – The record of trial is seven volumes consisting of five prosecution exhibits, two defense exhibits, 36 appellate exhibits, and one court exhibit; the transcript is 847 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was not provided an update of the status of counsel's progress on Appellant's case since the last motion for enlargement of time, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested fifth enlargement of time for good cause shown.

Respectfully submitted,


A solid black rectangular box used to redact the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
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Respectfully submitted,



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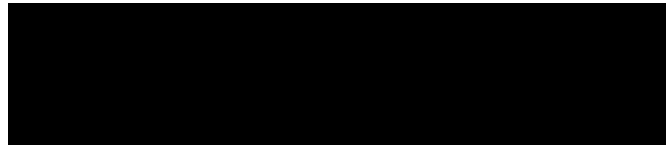
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman (E-2)	)	ACM 40588
DOMINIC C. HAYMOND II,)	
USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

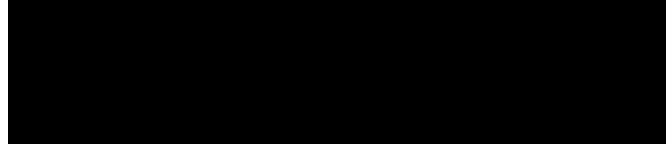
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 1 October 2024.



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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SIXTH)
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,	)	27 October 2024
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a sixth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **6 December 2024**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 230 days have elapsed. On the date requested, 270 days will have elapsed.

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 30 November 2023. The military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances for 20 months, to be confined for one year and eight months, and to be discharged from the service with a dishonorable discharge. R. at 688; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, 20 November 2023.

The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Appellant is currently confined.

Counsel is currently representing 27 clients; 14 clients are pending initial AOE's before this Court.¹ Five matters currently have priority over this case:

- 1) *United States v. Zhong*, ACM 40411, USCA Dkt. No. 25-0011/AF – The record of trial is four volumes consisting of 14 prosecution exhibits, 11 defense exhibits, 12 appellate exhibits, and one court exhibit; the transcript is 482 pages. Undersigned counsel has petitioned the CAAF for a grant of review and is drafting the supplement to the petition in this case.
- 2) *United States v. Myers*, ACM S32749, USCA Dkt. No. 25-0012/AF – The record of trial is four volumes consisting of seven prosecution exhibits, nine defense exhibits, and 26 appellate exhibits; the transcript is 656 pages. Undersigned counsel has petitioned the CAAF for a grant of review and is drafting the supplement to the petition in this case.


¹ Since the filing of Appellant's last request for an enlargement of time, counsel completed his review of the eight-volume record of trial and prepared and filed a merits brief in *U.S. v. Rodgers*, ACM 40528; prepared and filed a 27-page supplement to the petition for grant of review to the United States Court of Appeals for the Armed Forces (CAAF) in *U.S. v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF; prepared and filed an eight-page supplemental reply brief in *U.S. v. Doroteo*, ACM 40363; petitioned the CAAF for a grant of review in *U.S. v. Zhong*, ACM 40411, USCA Dkt. No. 25-0011/AF; petitioned the CAAF for a grant of review in *U.S. v. Myers*, ACM S32749, USCA Dkt. No. 25-0012/AF; prepared and filed a 15-page reply brief in *U.S. v. Cadavona*, ACM 40476; drafted a brief on behalf of appellant following redocketing in *U.S. v. Kershaw*, ACM 40455; reviewed approximately seventy percent of the five-volume record of trial in *U.S. v. Henderson*, ACM 40419; and participated in practice oral arguments for three additional cases. Additionally, counsel was off for the Columbus Day holiday and was on leave on 18–20 October 2024.

- 3) *United States v. Henderson*, ACM 40419 – The record of trial is five volumes consisting of ten prosecution exhibits, 21 defense exhibits, two court exhibits, and 25 appellate exhibits; the transcript is 937 pages. Undersigned counsel has reviewed approximately seventy percent of the record of trial in this case.
- 4) *United States v. Burkhardt-Bauder*, ACM 24011 – The record of trial is eight volumes consisting of five prosecution exhibits, 19 defense exhibits, 53 appellate exhibits, and one court exhibit; the transcript is 957 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 5) *United States v. York*, ACM 40604 – The record of trial is seven volumes consisting of five prosecution exhibits, two defense exhibits, 36 appellate exhibits, and one court exhibit; the transcript is 847 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was not provided an update of the status of counsel's progress on Appellant's case since the last motion for enlargement of time, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested sixth enlargement of time for good cause shown.

Respectfully submitted,




FREDERICK J. JOHNSON, Maj, USAF
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Email: frederick.johnson.11@us.af.mil

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 27 October 2024.

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
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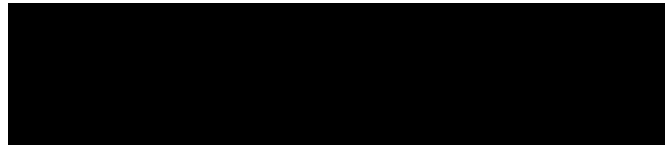
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman (E-2)	)	ACM 40588
DOMINIC C. HAYMOND II,)	
USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

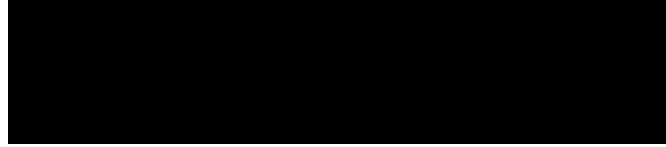
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 28 October 2024.



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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SEVENTH)
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,	)	27 November 2024
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a seventh enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **5 January 2025**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 261 days have elapsed. On the date requested, 300 days will have elapsed.

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 30 November 2023. The military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances for 20 months, to be confined for one year and eight months, and to be discharged from the service with a dishonorable discharge. R. at 688; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, 20 November 2023.

The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Appellant is currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing 30 clients; 16 clients are pending initial AOE's before this Court. Additionally, two clients have pending briefs before the United States Court of Appeals for the Armed Forces (CAAF).¹ Five matters currently have priority over this case:

- 1) *United States v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 24-0146/AF – The record of trial is nine volumes consisting of 14 prosecution exhibits, 16 defense exhibits, one court exhibit, and 47 appellate exhibits; the transcript is 896 pages. Undersigned counsel is drafting a grant brief to the CAAF in this case.
- 2) *United States v. Henderson*, ACM 40419 – The record of trial is five volumes consisting of ten prosecution exhibits, 21 defense exhibits, two court exhibits, and 25 appellate exhibits; the transcript is 937 pages. Undersigned counsel has reviewed approximately 90 percent of the record of trial in this case.

¹ Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a 31-page supplement to the petition for grant of review to the CAAF and a four-page reply to the Government's answer in *U.S. v. Zhong*, ACM 40411, USCA Dkt. No. 25-0011/AF; prepared and filed a 20-page supplement to the petition for grant of review to the CAAF in *U.S. v. Myers*, ACM S32749, USCA Dkt. No. 25-0012/AF; prepared and filed a thirteen-page brief on behalf of appellant following redocketing in *U.S. v. Kershaw*, ACM 40455 (f rev); reviewed approximately 20 percent of the five-volume record of trial in *U.S. v. Henderson*, ACM 40419; prepared and filed a five-page response to the Government's motion for reconsideration in *U.S. v. Patterson*, ACM 40426; reviewed the entirety of the seven-volume record of trial and prepared and filed a 45-page brief on behalf of appellant in *U.S. v. York*, ACM 40604; sat as second chair for outreach oral argument before this Court in *U.S. v. Menard*, ACM 40496; and participated in practice oral argument for one additional case. Additionally, counsel was off for the Veterans Day holiday.

- 3) *United States v. Manriquez*, ACM 40527 – The record of trial is five volumes consisting of three prosecution exhibits, one defense exhibits, 19 appellate exhibits, and two court exhibits; the transcript is 129 pages. Undersigned counsel is preparing a brief on two issues specified by this Court in this case.
- 4) *United States v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF – The record of trial is six volumes consisting of six prosecution exhibits, one court exhibit, 12 defense exhibits, and 36 appellate exhibits; the transcript is 396 pages. Undersigned counsel is drafting a grant brief to the CAAF in this case.
- 5) *United States v. Burkhardt-Bauder*, ACM 24011 – The record of trial is eight volumes consisting of five prosecution exhibits, 19 defense exhibits, 53 appellate exhibits, and one court exhibit; the transcript is 957 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was not provided an update of the status of counsel's progress on Appellant's case since the last motion for enlargement of time, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested seventh enlargement of time for good cause shown.

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
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Office: (240) 612-4770
Email: frederick.johnson.11@us.af.mil

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 27 November 2024.

Respectfully submitted,

A large black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

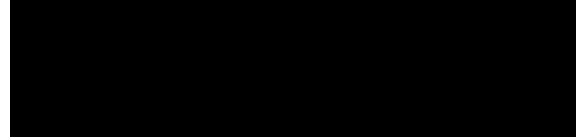
UNITED STATES,)	UNITED STATES'
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman (E-2)	)	ACM 40588
DOMINIC C. HAYMOND II,)	
USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

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 started review of the record of trial at this late stage of the appellate process.

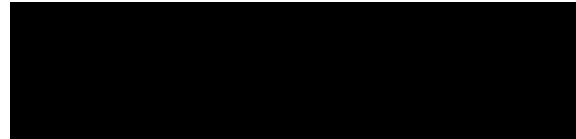
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 3 December 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,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (EIGHTH)
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,	)	23 December 2024
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an eighth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **4 February 2025**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 287 days have elapsed. On the date requested, 330 days will have elapsed.

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 30 November 2023. The military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances for 20 months, to be confined for one year and eight months, and to be discharged from the service with a dishonorable discharge. R. at 688; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, 20 November 2023.

The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Appellant is currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing 29 clients; 17 clients are pending initial AOE's before this Court. Additionally, one client has a pending brief before the United States Court of Appeals for the Armed Forces (CAAF).¹ Two matters currently have priority over this case:

- 1) *United States v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF – The record of trial is six volumes consisting of six prosecution exhibits, one court exhibit, 12 defense exhibits, and 36 appellate exhibits; the transcript is 396 pages. Undersigned counsel has drafted a grant brief to the CAAF in this case.
- 2) *United States v. Burkhardt-Bauder*, ACM 24011 – The record of trial is eight volumes consisting of five prosecution exhibits, 19 defense exhibits, 53 appellate exhibits, and one court exhibit; the transcript is 957 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.


Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel

¹ Since the filing of Appellant's last request for an enlargement of time, counsel completed his review of the five-volume record of trial and prepared and filed a 17-page AOE in *U.S. v. Henderson*, ACM 40419; prepared and filed a 35-page grant brief to the CAAF in *U.S. v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 24-0146/AF; prepared and submitted a two-page bullet background paper in response to the Government's request for The Judge Advocate General to certify the record to the CAAF in *U.S. v. Patterson*, ACM 40426; prepared and filed a motion to withdraw from appellate review in *U.S. v. Manriquez*, ACM 40527; drafted a 20-page grant brief to the CAAF in *U.S. v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF; and participated in practice oral arguments for one additional case. Additionally, counsel was off for the Thanksgiving holiday.

to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was not provided an update of the status of counsel's progress on Appellant's case since the last motion for enlargement of time, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested eighth enlargement of time for good cause shown.

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
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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 23 December 2024.

Respectfully submitted,

A solid black rectangular box used to redact the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, 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'
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman (E-2)	)	ACM 40588
DOMINIC C. HAYMOND II,)	
USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time 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 yearlong delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 7 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not started review of the record of trial at this late stage of the appellate process.

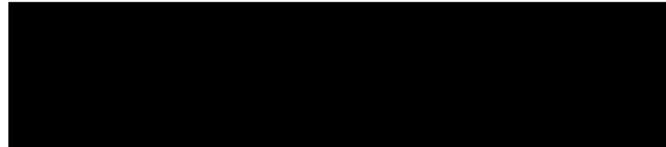
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 30 December 2024.



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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (NINTH)
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,	)	28 January 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a ninth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **6 March 2025**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 323 days have elapsed. On the date requested, 360 days will have elapsed.

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 30 November 2023. The military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances for 20 months, to be confined for one year and eight months, and to be discharged from the service with a dishonorable discharge. R. at 688; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, 20 November 2023.

The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Appellant is currently confined. Undersigned counsel has begun reviewing the record of trial in this case.

Counsel is currently representing 32 clients; 19 clients are pending initial AOE's before this Court. Additionally, one client has an upcoming oral argument before the United States Court of Appeals for the Armed Forces (CAAF).¹ Three matters currently have priority over this case:

- 1) *United States v. Henderson*, ACM 40419 – The record of trial is five volumes consisting of ten prosecution exhibits, 21 defense exhibits, two court exhibits, and 25 appellate exhibits; the transcript is 937 pages. Undersigned counsel is drafting a reply to the Government's answer in this case.
- 2) *United States v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 24-0146/AF – The record of trial is nine volumes consisting of 14 prosecution exhibits, 16 defense exhibits, one court exhibit, and 47 appellate exhibits; the transcript is 896 pages. Undersigned counsel is preparing to present oral argument as lead counsel before the CAAF in this case on 26 February 2025.
- 3) *United States v. Burkhardt-Bauder*, ACM 24011 – The record of trial is eight volumes consisting of five prosecution exhibits, 19 defense exhibits, 53 appellate exhibits, and

¹ Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a 26-page grant brief to the CAAF in *U.S. v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF; reviewed approximately 75 percent of the eight-volume record of trial in *U.S. v. Burkhardt-Bauder*, ACM 24011; prepared and filed a 17-page reply brief to the CAAF in *U.S. v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 24-0146/AF; assisted with the drafting of a 44-page AOE in *U.S. v. Dawson*, ACM 24041; began reviewing the seven-volume record of trial in this case; and participated in practice oral arguments for three additional cases. Additionally, counsel was on leave on 24–29 December 2024 and was off for the New Year's Day holiday, the National Day of Mourning for President Carter's state funeral, and the Birthday of Martin Luther King, Jr. holiday.

one court exhibit; the transcript is 957 pages. Undersigned counsel has reviewed approximately 75 percent of the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was not provided an update of the status of counsel's progress on Appellant's case since the last motion for enlargement of time, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested ninth enlargement of time for good cause shown.

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
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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 28 January 2025.

Respectfully submitted,

A solid black rectangular box used to redact the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

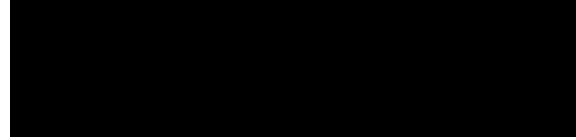
UNITED STATES,)	UNITED STATES'
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman (E-2)	)	ACM 40588
DOMINIC C. HAYMOND II,)	
USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time 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 yearlong 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. It appears that Appellant's counsel has not completed review of the record of trial at this late stage of the appellate process.

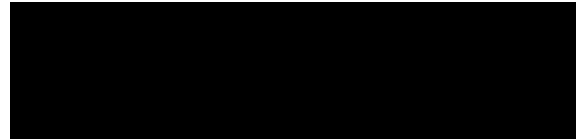
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 30 January 2025.



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,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (TENTH)
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,	)	27 February 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a tenth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **5 April 2025**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 353 days have elapsed. On the date requested, 390 days will have elapsed.

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 30 November 2023. The military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances for 20 months, to be confined for one year and eight months, and to be discharged from the service with a dishonorable discharge. R. at 688; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, 20 November 2023.

The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Appellant is currently confined. Undersigned counsel has reviewed approximately 20 percent the record of trial in this case.

Counsel is currently representing 34 clients; 19 clients are pending initial AOE's before this Court. Additionally, one client has a pending brief, one other client has an upcoming oral argument, and one additional client has an upcoming petition for a grant of review, all before the United States Court of Appeals for the Armed Forces (CAAF).¹ This case is undersigned counsel's highest priority among cases pending initial AOE's before this Court, but three additional matters have priority over it:

- 1) *United States v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF – The record of trial is 8 volumes consisting of 12 prosecution exhibits, eight defense exhibits, two court exhibits, and 75 appellate exhibits; the transcript is 987 pages. Undersigned counsel is drafting an answer brief to the CAAF in this case.
- 2) *United States v. Cadavona*, ACM 40476 – The record of trial is four volumes consisting of 11 prosecution exhibits, two defense exhibits, and 24 appellate exhibits; the

¹ Since the filing of Appellant's last request for an enlargement of time, counsel prepared a filed a motion to remand in *U.S. v. Burkhardt-Bauder*, ACM 24011; conducted three practice oral arguments and presented oral argument as lead counsel before the CAAF in *U.S. v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 24-0146/AF; assisted with preparing and filing a 44-page AOE in *U.S. v. Dawson*, ACM 24041; prepared and filed a six-page reply brief in *U.S. v. Henderson*, ACM 40419; reviewed approximately 15 percent of the seven-volume record of trial in this case; prepared and filed a seven-page reply brief in *U.S. v. York*, ACM 40604; prepared and filed a 13-page reply brief to the CAAF in *U.S. v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF; and participated in nine practice oral arguments for four additional cases. Additionally, counsel was off for the Washington's Birthday holiday.

transcript is 329 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.

- 3) *United States v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF – The record of trial is six volumes consisting of six prosecution exhibits, one court exhibit, 12 defense exhibits, and 36 appellate exhibits; the transcript is 396 pages. Undersigned counsel is preparing to present oral argument as lead counsel before the CAAF in this case on 19 March 2025.

On 6 May 2024, this Court issued an order stating that “any future requests for an enlargement of time that, if granted, would expire more than 360 days after docketing, will not be granted absent exceptional circumstances.” Order, *United States v. Haymond*, No. ACM 40588 (A.F. Ct. Crim. App. May 6, 2024). Since this motion for enlargement of time, if granted, would expire 390 days after docketing, exceptional circumstances must be shown in accordance with the Court’s order.

Undersigned counsel is willing to gain the necessary familiarity with the record to submit assignments of error prior to the filing deadline but, as can be seen by the Declaration of the Appellate Defense Division’s Deputy Chief, is impeded in doing so for reasons that amount to staffing shortages and, in turn, high workload demands on undersigned counsel. *See* Decl. at 1-6. The crux of these workload issues is that the Appellate Defense Division’s workload is up, but its staff to carry out that work remains largely unchanged.

The Appellate Defense Division has the highest volume of cases pending initial briefing before this Court since 2017, but the demands on the Division’s counsel are greater in today’s cases because records of trial now are between twenty-five and thirty-five percent longer than those of 2017, based solely on their transcript pages. *Id.* at 1-4. The demand placed by this

heightened amount of review per case has been compounded by a higher volume of clients, with the 2022 broadening of direct appeals in Article 65 requiring record-review and consultation for each eligible client, and with those direct appeals docketed with this Court amounting to approximately only forty percent of this pool of clients. *Id.* Over this same time since the December 2022 law change, the Appellate Defense Division faced a high volume of cases before the CAAF, a high volume of interlocutory appeals and writ-petitions, and multiple time-sensitive petitions to the Supreme Court of the United States. *Id.* All three of these classes of cases are particularly impactful on an attorney's ability to work cases before this Court because of the timelines involved, with interlocutory appeals taking priority and with cases appealed to the CAAF and the Supreme Court subject to strict timeline requirements. 10 U.S.C. §§ 806b(e)(3)(B), 862(b), 867(b); 28 U.S.C. § 2101(c). The workload demands before the Supreme Court are only increasing, with every appellant seeking review at the CAAF now eligible to petition the Supreme Court. *Id.* at 5-6. Relative to the Court of Appeals for the Armed Forces and the Supreme Court, this Court has substantially greater flexibility to adjust its deadlines and should do so here. *Compare United States v. Moreno*, 63 M.J. 129, 142 (C.A.A.F. 2006) (setting eighteen months post-docketing with the Court of Criminal Appeals as a trigger for analysis but declining to make it dispositive in light of the possibility of reasonable delay), *with* 10 U.S.C. 867(b), 28 U.S.C. § 2101(c).

Good cause for granting this motion is even more evident in light of the Appellate Defense Division's multi-faceted efforts to mitigate its workload strain. Multiple long-term absences were filled through support by reservists trained for and experienced in appellate practice. Decl. at 5-6. In 2023, the Appellate Defense Division sought a legislative change to alleviate its workload but was unsuccessful. *Id.* at 6. Also in 2023, the Appellate Defense Division requested eight

additional active-duty personnel. *Id.* at 6. One civilian has been permanently provided, starting work on 16 December 2024. *Id.* at 1, 6. Assignment of one additional active-duty counsel is scheduled for 2025, but it is unclear whether that is intended as a permanent additional billet. *Id.* at 6. In 2024, the Appellate Defense Division again requested eight additional active-duty personnel, with action pending on that request. *Id.* As of the start of 2025, the Appellate Defense Division has an advertisement for long-term reserve support in an effort to move cases. *Id.*

Having been tasked with doing substantially more work with the same resources, undersigned counsel's docket is such that the ordinary workload precludes—and has precluded—undersigned counsel from finalizing review and briefing of Appellant's case. That workload is to a degree that it may warrant scrutiny of what The Judge Advocate General is doing to ameliorate it. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008); *Moreno*, 63 M.J. at 137. The circumstances described here are exceptional, but not because they are new or previously unknown. They are exceptional because they demonstrate a task saturation brought about by numerous duties that often have conflicting timelines. These duties necessitate difficult prioritizations that have resulted in the requests for enlargements of time throughout the life of Appellant's case.

Crucially, the delay in reviewing Appellant's record necessitated by the prioritization of other matters is *through no fault of Appellant*. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was not provided an update of the status of counsel's progress on Appellant's case since the last motion for enlargement of time, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested tenth enlargement of time for good cause shown.

Respectfully submitted,

A solid black rectangular box used to redact the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
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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 27 February 2025.

Respectfully submitted,

A solid black rectangular box used to redact the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, 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
v.	)	OF TIME
)	
Airman (E-2)	)	ACM 40588
DOMINIC C. HAYMOND II,)	
USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

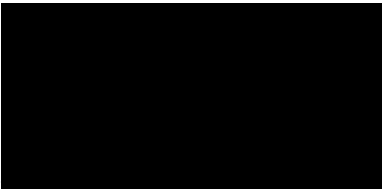
The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If appellant's new delay request is granted, the defense delay in this case will be 390 days in length. Appellant's over 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 almost two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 5 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.


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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 3 March 2025.


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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	APPELLANT’S MOTION TO ATTACH DOCUMENT
)	
)	
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,)	
<i>Appellant.</i>	)	27 February 2025

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

Pursuant to Rule 23(b) of the Joint Rules of Appellate Procedure, effective 17 May 2024, and Rule 23.3(b) of this Court’s Rules of Practice and Procedure, effective 23 December 2020, Appellant hereby moves to attach the Declaration at the Appendix to the Record of Trial.

The two governing rules set out above describe different standards, but the end-result under both should be to grant this motion. The Joint Rules require “good cause shown.” JT. CT. CRIM. APP. R. 23(b). This Court’s rules must be consistent with the Joint Rules. JT. CT. CRIM. APP. R. 3; *United States v. Gilley*, 59 M.J. 245, 247 (C.A.A.F. 2004). This Court’s rules require a statement concerning the relevance and necessity of the proposed item. A.F. CT. CRIM. APP. R. 23.3(b).

There is good cause to attach the proposed declaration because it is relevant and necessary to resolving Appellant’s Motion for Enlargement of Time (Tenth), which requires a showing of exceptional circumstances in accordance with this Court’s previous order. Order, *United States v. Haymond*, No. ACM 40588 (A.F. Ct. Crim. App. May 6, 2024). In at least one order, this Court suggested that “established evidence of government-caused staff shortages in the Appellate Defense Division” was needed to show why “routine workload” supports a motion for an

enlargement of time to file an appellant's initial assignments of error. Order at 2 n.3, *United States v. Evangelista*, No. ACM 40531 (A.F. Ct. Crim. App. Dec. 6, 2024). The proposed document provides that evidence.

As such, the proposed document is relevant and necessary, and there is good cause to grant this motion to attach a document.

Respectfully Submitted,

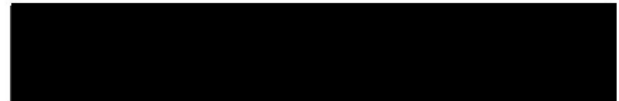


FREDERICK J. JOHNSON, Maj, USAF
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Counsel for Appellant

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing and the Appendix were delivered by e-mail to the Court and served on the Government Trial and Appellate Operations Division on 27 February 2025.



FREDERICK J. JOHNSON, Maj, USAF
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Email: frederick.johnson.11@us.af.mil

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (ELEVENTH)
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,	)	29 March 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an eleventh enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **5 May 2025**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 383 days have elapsed. On the date requested, 420 days will have elapsed.

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 30 November 2023. The military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances for twenty months, to be confined for one year and eight months, and to be discharged from the service with a dishonorable discharge. R. at 688; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, 20 November 2023.

The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, forty-two appellate exhibits, and one court exhibit; the transcript is 689 pages. Appellant is currently confined. Undersigned counsel has reviewed approximately twenty-five percent of the record of trial in this case.

Counsel is currently representing thirty-six clients; twenty-one clients are pending initial AOE's before this Court. Additionally, one client has an upcoming oral argument, and one other client has an upcoming supplement to the petition for a grant of review, both before the United States Court of Appeals for the Armed Forces (CAAF).¹ This case is undersigned counsel's highest priority among cases pending initial AOE's before this Court, but two additional matters have priority over it:

- 1) *United States v. Cadavona*, ACM 40476 – The record of trial is four volumes consisting of eleven prosecution exhibits, two defense exhibits, and twenty-four appellate exhibits; the transcript is 329 pages. Undersigned counsel has petitioned the CAAF for a grant of review and is drafting the supplement to the petition in this case.
- 2) *United States v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF – The record of trial is eight volumes consisting of twelve prosecution exhibits, eight defense exhibits,

¹ Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately five percent of the seven-volume record of trial in this case; prepared and filed a thirteen-page supplemental reply brief, conducted three practice oral arguments, and presented oral argument as lead counsel before the CAAF in *U.S. v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF; prepared and filed a 28-page answer to the CAAF and conducted a practice oral argument in *U.S. v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF; petitioned the CAAF for a grant of review and began drafting the supplement to the petition in *U.S. v. Cadavona*, ACM 40476, USCA Dkt. No. 25-0114/AF; assisted with preparing and filing an eighteen-page reply and an eight-page motion response in *U.S. v. Dawson*, ACM 24041; reviewed approximately forty percent of the three-volume record of trial in *U.S. v. Harnar*, ACM 40559; and participated in two practice oral arguments for an additional case. Additionally, counsel attended the CAAF wreath laying ceremony and reception on 25 March 2025.

two court exhibits, and seventy-five appellate exhibits; the transcript is 987 pages.

Undersigned counsel is preparing to present oral argument as lead counsel before the CAAF in this case on 9 April 2025.

On 6 May 2024, this Court issued an order stating that “any future requests for an enlargement of time that, if granted, would expire more than 360 days after docketing, will not be granted absent exceptional circumstances.” Order, *United States v. Haymond*, No. ACM 40588 (A.F. Ct. Crim. App. May 6, 2024). Since this motion for enlargement of time, if granted, would expire 420 days after docketing, exceptional circumstances must be shown in accordance with the Court’s order.

Undersigned counsel is willing to gain the necessary familiarity with the record to submit assignments of error prior to the filing deadline but, as can be seen by the Declaration of the Appellate Defense Division’s Deputy Chief, is impeded in doing so for reasons that amount to staffing shortages and, in turn, high workload demands on undersigned counsel. *See* Decl. at 1-6. The crux of these workload issues is that the Appellate Defense Division’s workload is up, but its staff to carry out that work remains largely unchanged.

The Appellate Defense Division has the highest volume of cases pending initial briefing before this Court since 2017, but the demands on the Division’s counsel are greater in today’s cases because records of trial now are between twenty-five and thirty-five percent longer than those of 2017, based solely on their transcript pages. *Id.* at 1-4. The demand placed by this heightened amount of review per case has been compounded by a higher volume of clients, with the 2022 broadening of direct appeals in Article 65 requiring record-review and consultation for each eligible client, and with those direct appeals docketed with this Court amounting to approximately only forty percent of this pool of clients. *Id.* Over this same time since the

December 2022 law change, the Appellate Defense Division faced a high volume of cases before the CAAF, a high volume of interlocutory appeals and writ-petitions, and multiple time-sensitive petitions to the Supreme Court of the United States. *Id.* All three of these classes of cases are particularly impactful on an attorney's ability to work cases before this Court because of the timelines involved, with interlocutory appeals taking priority and with cases appealed to the CAAF and the Supreme Court subject to strict timeline requirements. 10 U.S.C. §§ 806b(e)(3)(B), 862(b), 867(b); 28 U.S.C. § 2101(c). The workload demands before the Supreme Court are only increasing, with every appellant seeking review at the CAAF now eligible to petition the Supreme Court. *Id.* at 5-6. Relative to the Court of Appeals for the Armed Forces and the Supreme Court, this Court has substantially greater flexibility to adjust its deadlines and should do so here. *Compare United States v. Moreno*, 63 M.J. 129, 142 (C.A.A.F. 2006) (setting eighteen months post-docketing with the Court of Criminal Appeals as a trigger for analysis but declining to make it dispositive in light of the possibility of reasonable delay), *with* 10 U.S.C. 867(b), 28 U.S.C. § 2101(c).

Good cause for granting this motion is even more evident in light of the Appellate Defense Division's multi-faceted efforts to mitigate its workload strain. Multiple long-term absences were filled through support by reservists trained for and experienced in appellate practice. Decl. at 5-6. In 2023, the Appellate Defense Division sought a legislative change to alleviate its workload but was unsuccessful. *Id.* at 6. Also in 2023, the Appellate Defense Division requested eight additional active-duty personnel. *Id.* at 6. One civilian has been permanently provided, starting work on 16 December 2024. *Id.* at 1, 6. Assignment of one additional active-duty counsel is scheduled for 2025, but it is unclear whether that is intended as a permanent additional billet. *Id.* at 6. In 2024, the Appellate Defense Division again requested eight additional active-duty

personnel, with action pending on that request. *Id.* As of the start of 2025, the Appellate Defense Division has an advertisement for long-term reserve support in an effort to move cases. *Id.*

Having been tasked with doing substantially more work with the same resources, undersigned counsel's docket is such that the ordinary workload precludes—and has precluded—undersigned counsel from finalizing review and briefing of Appellant's case. That workload is to a degree that it may warrant scrutiny of what The Judge Advocate General is doing to ameliorate it. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008); *Moreno*, 63 M.J. at 137. The circumstances described here are exceptional, but not because they are new or previously unknown. They are exceptional because they demonstrate a task saturation brought about by numerous duties that often have conflicting timelines. These duties necessitate difficult prioritizations that have resulted in the requests for enlargements of time throughout the life of Appellant's case.

Crucially, the delay in reviewing Appellant's record necessitated by the prioritization of other matters is *through no fault of Appellant*. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested eleventh enlargement of time for good cause shown.

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
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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 29 March 2025.

Respectfully submitted,

A large black rectangular redaction box covering the signature area.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
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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
Airman (E-2))	
DOMINIC C. HAYMOND II,	)	No. ACM 40588
United States Air Force,)	
<i>Appellant.</i>)	
	)	31 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 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 over 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 420 days in length. Appellant's over 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 almost two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 4 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.

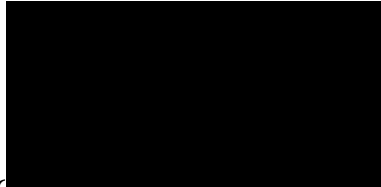
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 31 March 2025.



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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	APPELLANT’S MOTION TO ATTACH DOCUMENT
)	
)	
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,)	
<i>Appellant.</i>	)	29 March 2025

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

Pursuant to Rule 23(b) of the Joint Rules of Appellate Procedure, effective 17 May 2024, and Rule 23.3(b) of this Court’s Rules of Practice and Procedure, effective 23 December 2020, Appellant hereby moves to attach the Declaration at the Appendix to the Record of Trial.

The two governing rules set out above describe different standards, but the end-result under both should be to grant this motion. The Joint Rules require “good cause shown.” JT. CT. CRIM. APP. R. 23(b). This Court’s rules must be consistent with the Joint Rules. JT. CT. CRIM. APP. R. 3; *United States v. Gilley*, 59 M.J. 245, 247 (C.A.A.F. 2004). This Court’s rules require a statement concerning the relevance and necessity of the proposed item. A.F. CT. CRIM. APP. R. 23.3(b).

There is good cause to attach the proposed declaration because it is relevant and necessary to resolving Appellant’s Motion for Enlargement of Time (Eleventh), which requires a showing of exceptional circumstances in accordance with this Court’s previous order. Order, *United States v. Haymond*, No. ACM 40588 (A.F. Ct. Crim. App. May 6, 2024). In at least one order, this Court suggested that “established evidence of government-caused staff shortages in the Appellate Defense Division” was needed to show why “routine workload” supports a motion for an

enlargement of time to file an appellant's initial assignments of error. Order at 2 n.3, *United States v. Evangelista*, No. ACM 40531 (A.F. Ct. Crim. App. Dec. 6, 2024). The proposed document provides that evidence.

As such, the proposed document is relevant and necessary, and there is good cause to grant this motion to attach a document.

Respectfully Submitted,



FREDERICK J. JOHNSON, Maj, USAF
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Counsel for Appellant

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing and the Appendix were delivered by e-mail to the Court and served on the Government Trial and Appellate Operations Division on 29 March 2025.



FREDERICK J. JOHNSON, Maj, USAF
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**UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS**

UNITED STATES)	No. ACM 40588
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Dominic C. HAYMOND II)	
Airman (E-2))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 25 April 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Twelfth) requesting an additional 17 days to submit Appellant's assignments of error. The Government opposes the motion.

On 1 May 2025, the court held a status conference to discuss the progress of this case. Appellant was represented by Major Frederick J. Johnson; Lieutenant Colonel Allen S. Abrams, Deputy Chief of the Appellate Defense Division was also present. Lieutenant Colonel Jenny A. Liabenow represented the Government. Major Johnson provided certain updates to information provided in Appellant's motion and affirmed his belief that Appellant would require no additional enlargements of time beyond the twelfth. Lieutenant Colonel Liabenow maintained the Government's opposition to the motion but did not specifically challenge or comment on written or oral representation by the Defense.

The court has considered Appellant's motion, the Government's opposition, prior filings and orders in this case, case law, and this court's Rules of Practice and Procedure.

Accordingly, it is by the court on this 1st day of May, 2025,

ORDERED:

Appellant's Motion for Enlargement of Time (Twelfth) is **GRANTED**. Appellant shall file any assignments of error not later than **22 May 2025**.



OLGA STANFORD, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (TWELFTH)
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,	)	25 April 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a twelfth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of seventeen days, which will end on **22 May 2025**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 410 days have elapsed. On the date requested, 437 days will have elapsed.

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 30 November 2023. The military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances for twenty months, to be confined for one year and eight months, and to be discharged from the service with a dishonorable discharge. R. at 688; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, 20 November 2023.

The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, forty-two appellate exhibits, and one court exhibit; the transcript is 689 pages. Appellant is currently confined. Undersigned counsel has reviewed approximately forty percent of the record of trial in this case.

Counsel is currently representing thirty-seven clients; twenty-two clients are pending initial AOE's before this Court.¹ This case is undersigned counsel's highest priority among cases pending initial AOE's before this Court.

On 6 May 2024, this Court issued an order stating that "any future requests for an enlargement of time that, if granted, would expire more than 360 days after docketing, will not be granted absent exceptional circumstances." Order, *United States v. Haymond*, No. ACM 40588 (A.F. Ct. Crim. App. May 6, 2024). Since this motion for enlargement of time, if granted, would expire 437 days after docketing, exceptional circumstances must be shown in accordance with the Court's order.

Undersigned counsel is willing to gain the necessary familiarity with the record to submit assignments of error prior to the filing deadline but, as can be seen by the Declaration of the Appellate Defense Division's Deputy Chief, is impeded in doing so for reasons that amount to staffing shortages and, in turn, high workload demands on undersigned counsel. *See* Decl. at 1-

¹ Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately fifteen percent of the seven-volume record of trial in this case; conducted two practice oral arguments and presented oral argument as lead counsel before the United States Court of Appeals for the Armed Forces (CAAF) in *U.S. v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF; prepared and filed a twenty-seven-page supplement to the petition for grant of review to the CAAF in *U.S. v. Cadavona*, ACM 40476, USCA Dkt. No. 25-0114/AF; assisted with preparing and filing two motions in *U.S. v. Dawson*, ACM 24041; completed his review of the three-volume record of trial and prepared and filed a fifteen-page AOE in *U.S. v. Harnar*, ACM 40559; reviewed the two-volume record of trial and prepared and filed a motion to withdraw from appellate review in *U.S. v. Hatfield*, ACM S32791; and participated in three practice oral arguments for an additional case. Additionally, counsel was on leave on 18 April 2025.

6. The crux of these workload issues is that the Appellate Defense Division's workload is up, but its staff to carry out that work remains largely unchanged.

The Appellate Defense Division has the highest volume of cases pending initial briefing before this Court since 2017, but the demands on the Division's counsel are greater in today's cases because records of trial now are between twenty-five and thirty-five percent longer than those of 2017, based solely on their transcript pages. *Id.* at 1-4. The demand placed by this heightened amount of review per case has been compounded by a higher volume of clients, with the 2022 broadening of direct appeals in Article 65 requiring record-review and consultation for each eligible client, and with those direct appeals docketed with this Court amounting to approximately only forty percent of this pool of clients. *Id.* Over this same time since the December 2022 law change, the Appellate Defense Division faced a high volume of cases before the CAAF, a high volume of interlocutory appeals and writ-petitions, and multiple time-sensitive petitions to the Supreme Court of the United States. *Id.* All three of these classes of cases are particularly impactful on an attorney's ability to work cases before this Court because of the timelines involved, with interlocutory appeals taking priority and with cases appealed to the CAAF and the Supreme Court subject to strict timeline requirements. 10 U.S.C. §§ 806b(e)(3)(B), 862(b), 867(b); 28 U.S.C. § 2101(c). The workload demands before the Supreme Court are only increasing, with every appellant seeking review at the CAAF now eligible to petition the Supreme Court. *Id.* at 5-6. Relative to the Court of Appeals for the Armed Forces and the Supreme Court, this Court has substantially greater flexibility to adjust its deadlines and should do so here. *Compare United States v. Moreno*, 63 M.J. 129, 142 (C.A.A.F. 2006) (setting eighteen months post-docketing with the Court of Criminal Appeals as a trigger for analysis but

declining to make it dispositive in light of the possibility of reasonable delay), *with* 10 U.S.C. 867(b), 28 U.S.C. § 2101(c).


Good cause for granting this motion is even more evident in light of the Appellate Defense Division's multi-faceted efforts to mitigate its workload strain. Multiple long-term absences were filled through support by reservists trained for and experienced in appellate practice. Decl. at 5-6. In 2023, the Appellate Defense Division sought a legislative change to alleviate its workload but was unsuccessful. *Id.* at 6. Also in 2023, the Appellate Defense Division requested eight additional active-duty personnel. *Id.* at 6. One civilian has been permanently provided, starting work on 16 December 2024. *Id.* at 1, 6. Assignment of one additional active-duty counsel is scheduled for 2025, but it is unclear whether that is intended as a permanent additional billet. *Id.* at 6. In 2024, the Appellate Defense Division again requested eight additional active-duty personnel, with action pending on that request. *Id.* As of the start of 2025, the Appellate Defense Division has an advertisement for long-term reserve support in an effort to move cases. *Id.*

Having been tasked with doing substantially more work with the same resources, undersigned counsel's docket is such that the ordinary workload precludes—and has precluded—undersigned counsel from finalizing review and briefing of Appellant's case. That workload is to a degree that it may warrant scrutiny of what The Judge Advocate General is doing to ameliorate it. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008); *Moreno*, 63 M.J. at 137. The circumstances described here are exceptional, but not because they are new or previously unknown. They are exceptional because they demonstrate a task saturation brought about by numerous duties that often have conflicting timelines. These duties necessitate difficult prioritizations that have resulted in the requests for enlargements of time throughout the life of Appellant's case.

Crucially, the delay in reviewing Appellant's record necessitated by the prioritization of other matters is *through no fault of Appellant*. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was not provided an update of the status of counsel's progress on Appellant's case since the filing of Appellant's last request for an enlargement of time, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested twelfth enlargement of time for good cause shown.

Respectfully submitted,




FREDERICK J. JOHNSON, Maj, USAF
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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 25 April 2025.

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

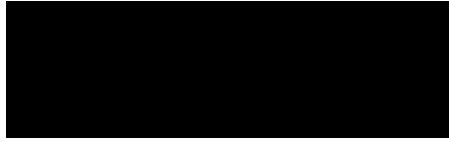
UNITED STATES,)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION
	)	FOR ENLARGEMENT OF TIME
)	
v.)	
)	
	)	Before Panel No. 1
Airman (E-2))	
DOMINIC C. HAYMOND II,	)	No. ACM 40588
United States Air Force,)	
<i>Appellant.</i>)	
	)	28 April 2025

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over 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 437 days in length. Appellant's over 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 over two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 3 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.

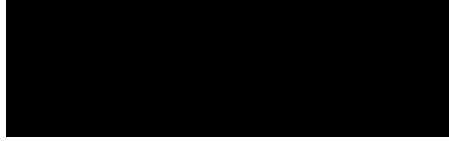
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 28 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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	APPELLANT’S MOTION TO ATTACH DOCUMENT
)	
)	
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,)	
<i>Appellant.</i>	)	25 April 2025

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

Pursuant to Rule 23(b) of the Joint Rules of Appellate Procedure, effective 17 May 2024, and Rule 23.3(b) of this Court’s Rules of Practice and Procedure, effective 23 December 2020, Appellant hereby moves to attach the Declaration at the Appendix to the Record of Trial.

The two governing rules set out above describe different standards, but the end-result under both should be to grant this motion. The Joint Rules require “good cause shown.” JT. CT. CRIM. APP. R. 23(b). This Court’s rules must be consistent with the Joint Rules. JT. CT. CRIM. APP. R. 3; *United States v. Gilley*, 59 M.J. 245, 247 (C.A.A.F. 2004). This Court’s rules require a statement concerning the relevance and necessity of the proposed item. A.F. CT. CRIM. APP. R. 23.3(b).

There is good cause to attach the proposed declaration because it is relevant and necessary to resolving Appellant’s Motion for Enlargement of Time (Eleventh), which requires a showing of exceptional circumstances in accordance with this Court’s previous order. Order, *United States v. Haymond*, No. ACM 40588 (A.F. Ct. Crim. App. May 6, 2024). In at least one order, this Court suggested that “established evidence of government-caused staff shortages in the Appellate Defense Division” was needed to show why “routine workload” supports a motion for an

enlargement of time to file an appellant's initial assignments of error. Order at 2 n.3, *United States v. Evangelista*, No. ACM 40531 (A.F. Ct. Crim. App. Dec. 6, 2024). The proposed document provides that evidence.

As such, the proposed document is relevant and necessary, and there is good cause to grant this motion to attach a document.

Respectfully Submitted,


A large black rectangular redaction box covering the signature area.

FREDERICK J. JOHNSON, Maj, USAF
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Air Force Appellate Defense Division
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Counsel for Appellant

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing and the Appendix were delivered by e-mail to the Court and served on the Government Trial and Appellate Operations Division on 25 April 2025.



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APPENDIX

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

UNITED STATES)	No. ACM 40588
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Dominic C. HAYMOND II)	
Airman (E-2))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 8 May April 2025, counsel for Appellant submitted a Consent Motion to Examine Sealed Materials. Specifically, Appellant requests counsel for both parties be permitted to examine the following materials sealed by the military judge: Appellate Exhibits (A.E.) VIII–X, and XX; and transcript pages 31–37, 261–273 and 484–488. These materials were viewed by trial counsel and trial defense counsel at trial. Although not requested, the record also contains a disc of the audio of the closed session hearings associated with the transcript pages *supra*.

Appellate counsel may examine sealed materials released to counsel at trial “upon a colorable showing . . . that examination is reasonably necessary to a proper fulfillment of the appellate counsel’s responsibilities.” R.C.M. 1113(b)(3)(B)(i).

The court has considered Appellant’s motion, the Government’s consent, and this court’s Rules of Practice and Procedure. The court finds Appellant’s counsel has made a colorable showing that review of the sealed materials is necessary to fulfill counsel’s responsibilities.

Accordingly, it is by the court on this 12th day of May, 2025,

ORDERED:

Appellant’s Consent Motion to Examine Sealed Materials is **GRANTED**.

Appellate defense counsel and appellate government counsel may view **A.E. VIII–X, and XX; transcript pages 31–37, 261–273 and 484–488; and although not requested, they may also both view the closed hearing audio.**

To view the sealed materials, counsel will coordinate with the court.

Except as outlined in this order, no counsel will photocopy, photograph, or otherwise reproduce this material and will not disclose or make available its

contents to any other individual without this court's prior written authorization.



FOR THE COURT



OLGA STANFORD, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	CONSENT MOTION
<i>Appellee,</i>	)	TO EXAMINE SEALED
	)	MATERIALS
)	
v.	)	Before Panel No. 1
)	
Airman (E-2)	)	No. ACM 40588
DOMINIC C. HAYMOND II,)	
United States Air Force,	)	8 May 2025
<i>Appellant.</i>)	

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

Pursuant to Rule for Courts-Martial (R.C.M.) 1113(b)(3)(B)(i) and Rules 3.1, 23.1(b), and 23.3(f)(1) of this Honorable Court’s Rules of Practice and Procedure, Appellant, Airman Dominic C. Haymond II, hereby moves this Court to permit appellate counsel for the Appellant and the Government to examine Appellate Exhibits VIII, IX, X, and XX as well as transcript pages 31–37, 261–273, and 484–488 in Appellant’s record of trial.

Facts

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 30 November 2023. In the course of the proceedings, trial defense counsel filed a motion to admit evidence pursuant to Mil. R. Evid. 412, and the trial counsel and victim’s counsel subsequently filed responses. App. Ex. VIII, IX, X; ROT Vol. 1, Exhibit Index. The military judge heard arguments and addressed this motion during three closed Article 39(a), UCMJ, sessions. R. at 30, 260, 482–83. The military judge ordered that the filings related to this motion, which consist of

Appellate Exhibits VIII–X and XX, and the transcript pages from the three closed Article 39(a), UCMJ, sessions be sealed. R. at 30, 260, 275, 483; App. Ex. XVI.

Law

Appellate counsel may examine materials presented or reviewed at trial and sealed, as well as materials reviewed *in camera*, released to trial or defense counsel, and sealed, upon a colorable showing to the appellate authority that examination is reasonably necessary to a proper fulfillment of the appellate counsel’s responsibilities under the UCMJ, the Manual for Courts-Martial, governing directives, instructions, regulations, applicable rules for practice and procedure, or rules of professional conduct. R.C.M. 1113(b)(3)(B)(i).

Air Force regulations governing professional duties and conduct of appellate defense counsel impose upon counsel, *inter alia*, a duty to provide “competent representation,” perform “reasonable diligence,” and to “give a client his or her best professional evaluation of the questions that might be presented on appeal...[to] consider all issues that might affect the validity of the judgment of conviction and sentence...[to] advise on the probable outcome of a challenge to the conviction or sentence...[and to] endeavor to persuade the client to abandon a wholly frivolous appeal or to eliminate contentions lacking in substance.” Air Force Instruction (AFI) 51-110, *Professional Responsibility Program*, Attachment 2: Air Force Rules of Professional Conduct, Rule 1.1, Attachment 7: Air Force Standards for Criminal Justice, Standard 4-8.3(b) (11 December 2018). These requirements are consistent with those imposed by the state bar to which counsel belongs.¹

This Court may grant relief “on the basis of the entire record” of trial. Article 66, UCMJ, 10 U.S.C. § 866. Appellate defense counsel so detailed by The Judge Advocate General shall

¹ Counsel of record is licensed to practice law in Georgia.

represent accused servicemembers before this Court. Article 70, UCMJ, 10 U.S.C. § 870. This Court's "broad mandate to review the record unconstrained by appellant's assignments of error" does not reduce "the importance of adequate representation" by counsel; "independent review is not the same as competent appellate representation." *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998).

Analysis

The sealed materials include four appellate exhibits, all of which were "presented" and "reviewed" by the parties at trial. R.C.M. 1113(b)(3)(B)(i). Similarly, the sealed portions of the transcript record proceedings in which the parties participated. It is reasonably necessary for Appellant's counsel to review these sealed materials for counsel to competently conduct a professional evaluation of Appellant's case and uncover all issues which might afford him relief. Because examination of the materials in question is reasonably necessary to the fulfillment of counsel's Article 70, UCMJ duties, and because the materials were available to the parties at trial, Appellant has provided the "colorable showing" required by R.C.M. 1113(b)(3)(B)(i) to permit his counsel's examination of these sealed materials and has shown good cause to grant this motion.

The Government consents to both parties examining the sealed materials detailed above.

WHEREFORE, Appellant respectfully requests this Honorable Court grant this motion and permit examination of the aforementioned sealed materials contained within the original record of trial.

Respectfully submitted,

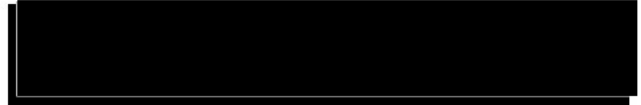


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CERTIFICATE OF FILING AND SERVICE

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

Respectfully submitted,

A large black rectangular box redacting the signature of Frederick J. Johnson.

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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee,

v.

Airman (E-2)

DOMINIC C. HAYMOND II,

United States Air Force,

Appellant.

**BRIEF ON BEHALF OF
APPELLANT**

Before Panel No. 1

No. ACM 40588

22 May 2025

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

Assignments of Error¹

I.

Whether Airman Haymond's constitutional rights were violated when he was convicted of an offense with no requirement that the court-martial panel (the functional equivalent of the jury) vote unanimously for guilt.²

II.

Whether the Government can prove 18 U.S.C. § 922 is constitutional as applied to Airman Haymond when he was convicted of offenses that do not fall within the nation's historical tradition of firearm regulation.

Statement of the Case

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, convicted Appellant, Airman (Amn) Dominic Haymond, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660. The military judge sentenced Amn Haymond to a reprimand, reduction to the grade of E-1, forfeiture of all pay and

¹ Additionally, Appellant personally raises one issue pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982). *See* Appendix.

² The defense raises this assignment of error for issue preservation purposes.

allowances for twenty months, confinement for one year and eight months, and a dishonorable discharge. R. at 688. The convening authority took no action on the findings or the sentence. Record of Trial (ROT) Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, 20 November 2023.

Statement of Facts

Amn Haymond and the named victim, C.B., met during technical training and dated for several months. R. at 400–01. Twice during their relationship, they went to a hotel together where they engaged in sexual activity. R. at 403, 419. Ultimately, they became engaged, and C.B. gave Amn Haymond a necklace that was very important to her. R. at 427; Defense Exhibit (Def. Ex.) A. However, after they went to different bases, C.B. ended their relationship, and they did not get back together despite her asking him to do so. R. at 427–28.

Months after their relationship ended, C.B. accused Amn Haymond of sexual assault. R. at 433. Agents from the Air Force Office of Special Investigations (AFOSI) interviewed Amn Haymond, and he provided statements about his relationship and interactions with C.B. Prosecution Exhibits (Pros. Exs.) 1–5. Amn Haymond was ultimately charged with four specifications of sexual assault. DD Form 458, *Charge Sheet*, 26 April 2023. He was found not guilty of one specification pursuant to a motion under Rule for Courts-Martial 917, and the panel acquitted him of two additional specifications. R. at 518, 660. However, the panel found him guilty of one specification of sexual assault while C.B. was asleep. R. at 660.

Additional facts are included *infra* as necessary.

Argument

I.

Airman Haymond's constitutional rights were violated when he was convicted of an offense with no requirement that the court-martial panel (the functional equivalent of the jury) vote unanimously for guilt.

Additional Facts

At trial, the Defense filed a motion for a unanimous verdict, which the Government opposed. Appellate Exhibits (App. Exs.) II, III. The military judge denied the motion. R. at 17. The military judge later instructed the members:

The concurrence of at least three-fourths of the members present when the vote is taken is required for any finding of guilty. Since we have eight members, that means six members must concur in any finding of guilty.

If you have at least six votes of guilty of any offense, then that will result in a finding of guilty for that offense.

R. at 643; App. Ex. XXXIV at 9.

The members found Amn Haymond guilty of one specification of sexual assault. R. at 660. It is unknown and unknowable whether that conviction was based on a vote of 6–2, 7–1, or 8–0.

Standard of Review

The standard of review for questions of constitutional law is de novo. *United States v. Busch*, 75 M.J. 87, 91 (C.A.A.F. 2016).

Law and Analysis

In *United States v. Anderson*, the United States Court of Appeals for the Armed Forces (CAAF) held that non-unanimous findings of guilty do not violate a court-martial accused's constitutional rights. 83 M.J. 291, 302 (C.A.A.F. 2023), *cert. denied*, 144 S. Ct. 1003 (2024). Amn Haymond acknowledges that, absent intervening CAAF or Supreme Court case law, this

Court is bound by the *Anderson* opinion. Nevertheless, Amn Haymond maintains that *Anderson* was wrongly decided and expressly preserves this issue for further appellate review.

WHEREFORE, Amn Haymond respectfully requests that this Court set aside the findings of guilty and the sentence.

II.

The government cannot prove 18 U.S.C. § 922 is constitutional as applied to Airman Haymond because he was convicted of offenses that do not fall within the nation’s historical tradition of firearm regulation.

Additional Facts

The first indorsements to both the entry of judgment (EOJ) and statement of trial results (STR) state that Amn Haymond is subject to a “Firearm Prohibition Triggered Under 18 U.S.C. § 922.” ROT Vol. 1, EOJ, 30 November 2023; ROT Vol. 1, STR, 30 October 2023.

Standard of Review

Whether post-trial processing was properly completed is reviewed de novo. *United States v. Zegarrundo*, 77 M.J. 612, 613–14 (A.F. Ct. Crim. App. 2018) (citing *United States v. Kho*, 54 M.J. 63, 65 (C.A.A.F. 2000)). This Court reviews questions of jurisdiction, law, and statutory interpretation de novo. *United States v. Lepore*, 81 M.J. 759, 760 (A.F. Ct. Crim. App. 2021).

Law and Analysis

A. Section 922 is unconstitutional as applied to Amn Haymond.

The test for applying the Second Amendment is as follows:

When the Second Amendment’s plain text covers an individual’s conduct, the Constitution presumptively protects that conduct. The government must then justify its regulation by demonstrating that it is consistent with the Nation’s historical tradition of firearm regulation. Only then may a court conclude that the individual’s conduct falls outside the Second Amendment’s “unqualified command.”

N.Y. State Rifle & Pistol Ass’n v. Bruen, 597 U.S. 1, 24 (2022) (quoting *United States v.*

Konigsberg, 366 U.S. 36, 50, n.10 (1961)).

Although the annotation that Section 922 applies to the case is vague, the Government presumably intended to apply Section 922(g)(1), which bars the possession of firearms for those convicted “in any court, of a crime punishable by imprisonment for a term exceeding one year.” Under *Bruen*, subsection (g)(1) cannot constitutionally apply to Amn Haymond, who stands convicted of offenses that have historically not merited firearms restrictions. To prevail, the Government would have to show a historical tradition of applying an undifferentiated ban on firearm possession, no matter the convicted offense, as long as the punishment could exceed one year of confinement. Regardless of the type or severity of an offense, all would be painted with the same brush. This the Government cannot show.

The historical tradition took a narrower view of firearms regulation for criminal acts than that reflected in Section 922:

[A]ctual “longstanding” precedent in America and pre-Founding England suggests that a firearms disability can be consistent with the Second Amendment to the extent that . . . its basis credibly indicates *a present danger that one will misuse arms against others and the disability redresses that danger*.

C. Kevin Marshall, *Why Can't Martha Stewart Have a Gun*, 32 Harv. J.L. & Pub. Pol'y 695, 698 (2009) (emphasis added). Prior to 1961, “the original [Federal Firearms Act] had a narrower basis for a disability, limited to those convicted of a ‘crime of violence.’” *Id.* at 699. Earlier, the Uniform Firearms Act of 1926 and 1930 stated that “a person convicted of a ‘crime of violence’ could not ‘own or have in his possession or under his control, a pistol or revolver.’” *Id.* at 701, 704 (quoting 1926 Uniform Firearms Act §§ 1, 4). A “crime of violence” meant “committing or attempting to commit ‘murder, manslaughter, rape, mayhem, assault to do great bodily harm, robbery, [larceny], burglary, and housebreaking.’” *Id.* at 701 (quoting 1926 Uniform Firearms Act § 1). The offense of which Amn Haymond was convicted falls short of these. It was not until

1968 that Congress “banned possession and extended the prohibition on receipt to include any firearm that ever had traveled in interstate commerce.” *Id.* at 698. “[I]t is difficult to see the justification for the complete lifetime ban for all felons that federal law has imposed only since 1968.” *Id.* at 735.

The Third Circuit adopted this logic to conclude that Section 922(g)(1) is unconstitutional as applied to an appellant with a conviction for making a false statement to obtain food stamps, which was punishable by five years’ imprisonment. *Range v. AG United States*, 124 F.4th 218, 232 (3d Cir. 2024). Evaluating Section 922(g)(1) in light of *Bruen* and *United States v. Rahimi*, 602 U.S. 680 (2024), the court noted that the earliest version of the statute prohibiting those convicted of crimes punishable by more than one year of imprisonment, from 1938, “applied only to *violent* criminals.” *Range*, 124 F.4th at 229. It found no “relevantly similar” analogue to imposing lifetime disarmament upon those who committed nonviolent crimes. *Id.* at 228–32. The real question, then, is whether Amn Haymond’s convictions meet the historical tradition of regulating firearms based on a limited framing of “violent.”

In addition to the distinction on violence, a felony conviction today is vastly different from what constituted a felony prior to the 20th century, let alone at the time of this country’s founding. This is problematic because categorizing crimes as felonies has not only increased, but done so in a manner inconsistent with the traditional understanding of a felony:

The need [for historical research] is particularly acute given the cancerous growth since the 1920s of “regulatory” crimes punishable by more than a year in prison, as distinct from traditional common-law crimes. The effect of this growth has been to expand the number and types of crimes that trigger “felon” disabilities to rope in persons whose convictions do not establish any threat that they will physically harm anyone, much less with a gun.

Marshall, *supra*, at 697. Notably, the “federal ‘felon’ disability--barring any person convicted of a crime punishable by more than a year in prison from possessing any firearm--is less than [64]

years old.” *Id.* at 698. In fact, “one can with a good degree of confidence say that bans on convicts possessing firearms were unknown before World War I.” *Id.* at 708. On this point alone, the Government has not proven that such a ban is consistent with this country’s history and tradition.

All the arguments above demonstrate that violation of a lawful general regulation does not qualify for a lifetime ban on firearms. The *Rahimi* case does not change the analysis. 602 U.S. at 680. In *Rahimi*, the Supreme Court addressed the validity of Section 922(g)(8)(C)(i), which applies once a court has found that a defendant “represents a credible threat to the physical safety of another” and issued a restraining order. *Id.* at 699. The Court concluded that the historical analysis supported the proposition that when “an individual poses a clear threat of physical violence to another, the threatening individual may be disarmed.” *Id.* at 698.

But the historical analogue breaks down when applied here. In *Rahimi*, the Court noted that the “surety” and “going armed laws” which supported a restriction involved “whether a particular defendant likely would threaten or had threatened another with a weapon.” *Id.* at 699. The Court also noted that surety bonds were of limited duration, and that Section 922(g)(8) only applied while a restraining order was in place. *Id.* By contrast, this case did not involve a threat with a weapon, and the firearms ban will last forever. Ultimately, the Supreme Court itself noted the limited nature of its holding. As the Supreme Court stated, “We conclude only this: An individual found by a court to pose a credible threat to the physical safety of another may be temporarily disarmed consistent with the Second Amendment.” *Id.* at 702. Such a narrow holding cannot support the broad restriction encompassed here.

B. This Court may order correction of the First Indorsement to the Entry of Judgment under Article 66(d)(2), UCMJ, 10 U.S.C. § 866(d)(2).

In *United States v. Williams*, the CAAF considered whether the Army Court of Criminal Appeals (Army Court) had the authority to alter the military judge’s correction to the STR, which

is incorporated into the judgment of the court signed by the military judge. 85 M.J. 121, 122–23 (C.A.A.F. 2024). In *Williams*, the military judge had erroneously marked on the STR that the appellant’s conviction triggered the Lautenberg Amendment, 18 U.S.C. § 922(g), after advising the appellant of the opposite during his guilty plea. *Id.* Later, in promulgating the judgment, the military judge incorporated and amended the original STR to correct the firearms ban so that 18 U.S.C. § 922(g) was not triggered. *Id.* at 124. On appeal, the Army Court changed the firearm bar on the STR *back*, to reindicate the appellant was barred from possessing a firearm. *Id.*

The CAAF determined that changing the STR back was an ultra vires act by the Army Court because “the STR is not part of the findings or sentence,” but rather “other information” required by R.C.M. 1101(a)(6). *Id.* at 126. Therefore, the Army Court did not have authority to act pursuant to Article 66(d)(1), UCMJ, 10 U.S.C. § 866(d)(1) (2018),³ in this way. *Id.*

The CAAF then analyzed whether the Army Court had the authority to change the firearm ban under Article 66(d)(2), UCMJ, 10 U.S.C. § 866(d)(2), as an “error . . . in the processing of the court-martial after the judgment was entered into the record.” *Id.* at 126–27. The CAAF concluded that Article 66(d)(2) did not apply for three reasons related to the unique facts of that case. *Id.* First, there was no “error” because the military judge corrected any erroneous notation on the STR before signing the judgment. *Id.* at 126. Thus, by the plain language of the statute, there was no error to consider after the EOJ. Second, assuming error, the burden of raising such error was on the accused. *Id.* As the appellant in *Williams* agreed with the military judge’s action in correcting the firearm notation, no error was raised. *Id.* Therefore, the Army Court’s “correction authority” had not been “triggered,” as the appellant never raised the firearm notation as an error. Third,

³ The language at issue in Article 66, UCMJ, is not substantively different between the 2018 version analyzed in *Williams* and the version applicable to Amn Haymond’s appeal.

assuming error and assuming the error had been raised, the timing of the military judge’s erroneous notation preceded the EOJ; it was on the STR. *Id.* at 127. Therefore, based on the plain language of Article 66(d)(2), UCMJ, it was not an error occurring *after* the EOJ. *Id.*

The CAAF did not foreclose properly raising an erroneous firearm notation to the service courts of appeal under Article 66(d)(2), UCMJ, when the error raised occurs *after* the EOJ, as in Amn Haymond’s case.⁴ Unlike the appellant in *Williams*, Amn Haymond meets the factual predicate to trigger this Court’s review under Article 66(d)(2), UCMJ, 10 U.S.C. § 866(d)(2). *See United States v. Valentin-Andino*, __ M.J. __, 2025 CAAF LEXIS 248, at *10 n.4 (C.A.A.F. Mar. 31, 2025) (indicating that post-trial errors are now governed solely by Article 66(d)(2), UCMJ).

First, Amn Haymond “demonstrated error” in his case—that he was erroneously and unconstitutionally deprived of his right to bear arms. In demonstrating this error, Amn Haymond seeks correction of the EOJ, which includes the First Indorsement with the erroneous firearm bar. Alternatively, Amn Haymond would also welcome other “appropriate relief.” Article 66(d)(2), UCMJ, 10 U.S.C. § 866(d)(2) (stating that “the Court may provide appropriate relief if the accused demonstrates error...in the processing of the court-martial after the judgment was entered into the record”).

The requested remedy of correcting the EOJ is in line with *Williams*. While this Court cannot correct the erroneous firearms bar associated with the STR, it *can* correct the erroneous

⁴ The statutory authority for this Court to act may differ from the authority of the CAAF to address this issue under Article 67, 10 U.S.C. § 867, a question which may be resolved by the CAAF in *United States v. Johnson*, No. ACM 40257, USCA Dkt. No. 24-0004/SF, 84 M.J. 343 (C.A.A.F. Mar. 29, 2024), *vacated and review of other issues granted*, __ M.J. __ (C.A.A.F. Sep. 24, 2024) (the CAAF granted review of this case and later vacated its initial order and granted review of different issues). The military judge’s inclusion of the STR and its First Indorsement—and the firearms prohibition therein—into the EOJ is a “decision, judgment, or order” that was “incorrect in law.”

firearm notation on the First Indorsement attached to the EOJ, which was completed *after* the EOJ during post-trial processing. *Williams*, 85 M.J. at 126–27; *see also infra* at 12–13 (discussing timing in detail). Unlike the appellant in *Williams*, there is an error raised and demonstrated by Amn Haymond for this Court to consider under Article 66(d)(2), UCMJ.

Second, the error on the First Indorsement depriving Amn Haymond of his constitutional right to a firearm was an error in the “processing of the court-martial after the judgment was entered into the record under section 860(c) . . . (article 60(c)).” Article 66(d)(2), UCMJ. Under the applicable Air Force regulation, “[a]fter the EOJ is signed by the military judge and returned to the servicing legal office, the [Staff Judge Advocate] signs and attaches to the [EOJ] a first indorsement, indicating whether . . . firearm prohibitions are triggered.” Department of the Air Force Instruction (DAFI) 51-201, *Administration of Military Justice*, ¶ 20.41 (Jan. 24, 2024) (emphasis added).⁵ The firearm denotation on the first indorsement to the EOJ explicitly happens *after* the EOJ is signed by the military judge pursuant to Article 60(c), UCMJ. *Id.* Additionally, as this first indorsement is the most recent notification to law enforcement entities about the applicability of 18 U.S.C. § 922 to Amn Haymond, it makes sense that this is the document the Court should review for post-trial processing error. *See id.* at ¶¶ 20.42, 29.6, 29.32, 29.33 (dictating when notifications are made through distribution of the EOJ with its first indorsement). Therefore, unlike the issue addressed in *Williams*, the error here occurred after the EOJ, in accordance with the last triggering criterion under Article 66(d)(2), UCMJ.

Finally, this Court’s authority to review the erroneous firearm ban under Article 66(d)(2), UCMJ, is not foreclosed by this Court’s published opinion in *United States v. Vanzant*, 84 M.J.

⁵ Although the current version of DAFI 51-201 became effective after entry of judgment in this case, previous versions included the same requirement for the first indorsement to the EOJ. *See, e.g.,* Air Force Instruction 51-201, *Administration of Military Justice*, ¶ 13.38.3 (Jan. 18, 2019).

671 (A.F. Ct. Crim. App. 2024), *rev. granted*, USCA Dkt. No. 24-0182, ___ M.J. ___, 2024 CAAF LEXIS 640 (C.A.A.F. Oct. 17, 2024). In *Vanzant*, this Court determined it did not have authority to act on collateral consequences not a part of the findings or sentence specifically under Article 66(d)(1), UCMJ. *Id.* at 680 (“Article 66(d), UCMJ, provides that a [Court of Criminal Appeals] ‘may act only with respect to the findings and sentence as entered into the record under [Article 60c, UCMJ, 10 U.S.C. § 860c].’”); *but see, e.g., United States v. Lawson*, No. ACM 23034, 2024 CCA LEXIS 431, at *2 (A.F. Ct. Crim. App. Oct. 17, 2024) (broadly summarizing *Vanzant* as standing for the proposition that “the 18 U.S.C. § 922 firearm prohibition notation included in the staff judge advocate’s indorsement to the [EOJ] is beyond a Court of Criminal Appeals’ statutory authority to review”). The CAAF later agreed with this Court’s interpretation of Article 66(d)(1). *Williams*, 85 M.J. at 125–26. However, Amn Haymond is asking this Court to review an error in post-trial processing under Article 66(d)(2), UCMJ, which this Court did not analyze in *Vanzant*. *See* 84 M.J. at 680 (quoting the language of Article 66(d)(1), UCMJ, not (d)(2)). To effectuate any remedy, this Court should use its power under R.C.M. 1112(d)(2), which permits this Court to send a defective record back to the military judge for correction, as, ultimately, the First Indorsement is a required component of the EOJ, albeit not part of the “findings” and “sentence,” and the error materially affects Amn Haymond’s constitutional rights. R.C.M. 1111(b)(3)(F); R.C.M. 1112(b)(9); DAFI 51-201, at ¶ 20.41.

WHEREFORE, Amn Haymond respectfully requests that this Court hold 18 U.S.C. § 922 is unconstitutional as applied to him and order correction of the First Indorsement to the EOJ, pursuant to its authority under Article 66(d)(2), UCMJ.

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 Government Trial and Appellate Operations Division on 22 May 2025.

Respectfully submitted,

A solid black rectangular box used to redact the signature of Frederick J. Johnson.

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Appendix

Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), Appellant, through appellate defense counsel, personally requests that this Court consider the following matter:

Whether the findings of guilty are factually insufficient because the evidence upon which they are based is not credible.

Additional Facts

Months before speaking with the Air Force Office of Special Investigations (AFOSI), C.B. ended the relationship between her and Amn Haymond, but she called him the next day and tried to reinitiate the relationship after speaking with her mother, who told her she was making a mistake. R. at 301–02, 433; Declaration of Dominic C. Haymond II, 21 May 2025 (Declaration). Amn Haymond declined to reinitiate this relationship because he felt like he needed time to work through some issues. Declaration. C.B. indicated she would block Amn Haymond, and she expressed concern that the distance between them would cause him to cheat on her, if he hadn't already started. *Id.*

Agents from the AFOSI interviewed Amn Haymond as part of the investigation into C.B.'s allegations. Pros. Exs. 1–5. At the time of this interview, Amn Haymond was young and naïve and did not fully understand how his rights worked. Declaration; *see also* App. Ex. VI at 3 (indicating the interview took place on 19 October 2022, one day after Amn Haymond's twentieth birthday). Additionally, the interview lasted for over four hours, and Amn Haymond repeatedly indicated he felt cold in the interview room. App. Ex. VI at 1, 3. Approximately three hours and fifteen minutes after the interview began, one of the AFOSI agents asked Amn Haymond if he was lying to them. *Id.* at 2–3. Amn Haymond indicated he was not lying, and the agents then left him in the room alone for approximately twenty-three minutes. *Id.* at 3. While he was in the room without the agents, Amn Haymond could only think that C.B. must be hurt, and he felt he owed it

to her to tell AFOSI what they wanted to hear. Declaration. When the agents returned, Amn Haymond made statements that seemed to describe an occasion when he penetrated C.B. while she was asleep, which were later introduced into evidence at his court-martial. Pros. Exs. 4–5, R. at 385–90.

C.B. testified during Amn Haymond’s court-martial. R. at 399–496. Her testimony differed in numerous ways from the accounts she had given to AFOSI during two interviews and when speaking with members of the prosecution team. R. at 436, 438, 452–55, 458–61, 471. C.B. refused to speak with the Defense before trial. R. at 437. She also testified that she had lied to Amn Haymond about a previous bad sexual experience. R. at 433. Finally, during her testimony, she began to refer to the alleged sexual assault as an accident before changing her testimony to call it a sexual assault. R. at 426, 460–61.

Argument

The findings of guilty are factually insufficient because the evidence upon which they are based is not credible.

Standard of Review

This Court reviews issues of factual sufficiency de novo. Article 66(d)(1)(B), UCMJ, 10 U.S.C. § 866(d)(1)(B); *United States v. Washington*, 57 M.J. 394, 399 (C.A.A.F. 2002).

Law and Analysis

The findings of guilty are factually insufficient because the evidence on which they are based lacks credibility. The test for factual sufficiency is “whether, after weighing the evidence in the record of trial and making allowances for not having personally observed the witnesses, the members of [this Court] are themselves convinced of appellant's guilt beyond a reasonable doubt.” *United States v. Rosario*, 76 M.J. 114, 117 (C.A.A.F. 2017) (quoting *United States v. Oliver*, 70 M.J. 64, 68 (C.A.A.F. 2011)). For offenses occurring after 1 January 2021, the UCMJ specifies

this Court “may consider whether the finding is correct in fact upon request of the accused if the accused makes a specific showing of a deficiency in proof.” Article 66(d)(1)(B)(i), UCMJ; 10 U.S.C. § 866(d)(1)(B)(i). If “the Court is clearly convinced that the finding of guilty was against the weight of the evidence, the Court may dismiss, set aside, or modify the finding.” Article 66(d)(1)(B)(iii), UCMJ; 10 U.S.C. § 866(d)(1)(B)(iii). Thus, to set aside a conviction for factual insufficiency, the Court “must be clearly convinced that the weight of the evidence does not support the conviction beyond a reasonable doubt.” *United States v. Csiti*, No. ACM 40386, 2024 CCA LEXIS 160, at *25 (A.F. Ct. Crim. App. Apr. 29, 2024), *aff’d*, __ M.J. __, 2025 CAAF LEXIS 349 (C.A.A.F. 2025).

Here, Amn Haymond requests this court consider whether the finding of guilt for sexual assault while C.B. was asleep is correct in fact and find the proof deficient because C.B. and Amn Haymond’s statements about this incident are not credible. Despite initially ending their relationship, C.B. quickly tried to reinitiate it after her mother told her she was making a mistake. Declaration. It was Amn Haymond who declined to reinitiate their relationship. *Id.* Moreover, C.B. was apparently insecure about their relationship, as she expressed concern that Amn Haymond would cheat on her if he had not already done so. *Id.* This context calls the credibility of her later sexual assault allegations into question, and Amn Haymond’s refusal to reinitiate their relationship gave her a motive to fabricate.

C.B.’s testimony itself had hallmarks of a lack of credibility. She acknowledged many points on which her testimony differed from her previous statements, including statements made to AFOSI in two interviews. R. at 436, 438, 452–55, 458–61, 471. She readily admitted that she had lied in the past about a bad sexual experience. R. at 433. She even had to go back and correct herself at one point after referring to an alleged sexual assault as an accident. R. at 426, 460–61.

These changes to her story, her past lie, and the reference to an accident all suggest that her testimony, including her account of the offense for which Amn Haymond was convicted, was not entirely truthful. C.B.'s testimony is not credible and does not support the findings of guilty.

Likewise, there are reasons to question the credibility of Amn Haymond's own statements about this incident. He made these statements after a lengthy interrogation by AFOSI agents that included accusations that he was lying. App. Ex. VI at 2–3. The context of his statements also undermines their credibility, as Amn Haymond was young and naïve, did not understand how his rights worked, and was placed in an uncomfortably cold room for hours. Declaration; App. Ex. VI at 1, 3. These factors culminated in Amn Haymond thinking that he owed it to C.B. to tell AFOSI what they wanted to hear. Declaration. The statements he made under those circumstances should not be considered credible.

Neither C.B.'s nor Amn Haymond's statements about the offense for which Amn Haymond was convicted are credible. Since these statements were the only evidence of the offense, there is insufficient evidence without them to support the findings of guilty. Therefore, this Court should be clearly convinced that the findings of guilty are against the weight of the evidence and should find the conviction factually insufficient. Article 66(d)(1)(B)(iii), UCMJ; 10 U.S.C. § 866(d)(1)(B)(iii)

WHEREFORE, Amn Haymond personally and respectfully requests that this Court set aside the findings of guilty and the sentence.

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee,

v.

Airman (E-2)

DOMINIC C. HAYMOND II,

United States Air Force,

Appellant.

**APPELLANT'S MOTION TO
ATTACH A DOCUMENT**

Before Panel No. 1

No. ACM 40588

22 May 2025


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

Appellant, Airman (Amn) Dominic C. Haymond II, personally moves this Court pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), and Rules 23 and 23.3(b) of this Court's Rules of Practice and Procedure to attach the following document to his record of trial:

Declaration of Dominic C. Haymond II, 1 page, dated 21 May 2025 (Attachment)

WHEREFORE, Appellant respectfully requests this Honorable Court grant this motion to attach a document.

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 Government Trial and Appellate Operations Division on 22 May 2025.

Respectfully submitted,

A solid black rectangular box used to redact the signature of Frederick J. Johnson.

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Appendix

Amn Haymond requests this Court attach the declaration attached to this motion to his record of trial. The declaration may be attached consistent with *United States v. Jessie*, because its consideration is necessary to “resolv[e] issues raised by materials in the record.” 79 M.J. 437, 444 (C.A.A.F. 2020); accord *United States v. Willman*, 81 M.J. 355, 358 (C.A.A.F. 2021) (“In addition to permitting consideration of any materials contained in the ‘entire record,’ our precedents also authorize the CCAs to supplement the record to decide any issues that are raised, but not fully resolved, by evidence in the record.”). Amn Haymond’s declaration provides additional context and background for testimony and statements that were entered into evidence at trial. It is necessary to assess the credibility of this evidence, which in turn is necessary to determine the factual sufficiency of Amn Haymond’s conviction.

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	UNITED STATES’ OPPOSITION
	)	TO APPELLANT’S
	)	MOTION TO ATTACH
v.)	
	)	Before Panel No. 1
Airman (E-2))	
DOMINIC C. HAYMOND II,	)	No. ACM 40588
United States Air Force)	
<i>Appellant.</i>	)	29 May 2025

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

Under Rule 23.2 of this Honorable Court’s Rules of Practice and Procedure, the United States opposes Appellant’s motion to attach Appendix – his declaration dated 21 October 2024.

Appellant was found guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, UCMJ.

Appellant asserts under United States v. Grostefon, 12 M.J. 431 (C.M.A. 1982), that the findings of guilt are factually insufficient because the evidence relied upon at trial was not “credible.” (App. Br., Appx. at 1.) The crux of his argument is that the named victim, C.B.’s testimony lacked credibility. (Id. at 3.) In support of his argument, Appellant has filed a motion to attach his own declaration providing additional facts not presented at trial.

This Court requires a motion to attach filed under Rule of Practice and Procedure (Rule) 23.3 to set forth the basis for which the filing shall be permitted. Rule 23.3(b) further requires the proponent to state the “relevance and necessity to the case.”

The record of trial contains the entry of judgment (EOJ) and all the facts supporting Appellant’s finding of guilt for sexual assault in violation of Article 120, UCMJ. (*Entry of*

Judgment, dated 30 November 2023, ROT, Vol. 1; R. at 277-589.)

Appellant's declaration states that it was provided "[i]n support of [his] assignment of error that the findings of the court-martial are factually insufficient." It provides evidence and statements that were not introduced at trial and are not subject to cross-examination.


ANALYSIS

This Court should deny Appellant's motion to attach Appendix because a Court of Criminal Appeals is constrained by the bounds of the record from the court below when reviewing an appellant's guilt or innocence for legal or factual sufficiency. United States v. Holt, 58 M.J. 227, 232 (C.A.A.F. 2003); United States v. Dykes, 38 M.J. 270, 272 (C.M.A. 1993). As this Court noted in United States v. Parra, 2021 CCA LEXIS 653, at *3, n.5 (A.F. Ct. Crim. App. Dec. 2, 2021), when reviewing issues of legal and factual sufficiency extra-record materials are not relevant or necessary to this Court's determination. *See also* United States v. Perry, No. NMCCA 201400425, 2015 CCA LEXIS 374, at *11, n. 5 (N-M. Ct. Crim. App. Sep. 3, 2015) (denying appellant's motion to attach because "[it] is well-established that a Court of Criminal Appeals' assessment of an appellant's guilt or innocence for legal and factual sufficiency is limited to the evidence presented at trial.") (citing Dykes, 38 M.J. at 272 (C.M.A. 1993)). In light of the above, Appellant has failed to comply with this Court's rules and the declaration that Appellant has provided containing extra-record materials is not "necessary for resolving issues raised by materials in the record." United States v. Jessie, 79 M.J. 437, 444 (C.A.A.F. 2020).


Moreover, Appellant seeks to attach extra-record material to establish factual insufficiency, when he elected not to testify at trial, as is his right. (App. Mot. at 1.) Permitting the attachment of such a declaration would set a dangerous precedent because it would allow

appellant's to attack the factual foundation of their convictions without ever having been subject to the crucible of cross-examination. This Court should decline to establish such a dangerous precedent.

WHEREFORE, the United States respectfully requests this Court deny Appellant's motion to attach Appendix.



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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 29 May 2025



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

UNITED STATES)	No. ACM 40588
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Dominic C. HAYMOND II)	
Airman (E-2))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 22 May 2025, counsel for Appellant submitted a Motion to Attach, specifically requesting to attach the following to the record of trial: a Declaration from the Appellant, dated 21 May 2025. The Government opposed this motion.

The court has considered Appellant's motion, Government's opposition, case law, and this court's Rules of Practice and Procedure. The court grants Appellant's motion; however, it specifically defers consideration of the applicability of *United States v. Jessie*, 79 M.J. 437 (C.A.A.F. 2020), and related case law to the attachment until it completes its Article 66, UCMJ, 10 U.S.C. § 866, review of Appellant's entire case.

Accordingly, it is by the court on this 6th day of June, 2025,

ORDERED:

Appellant's Motion to Attach, dated 22 May 2025, is **GRANTED**.



FOR THE COURT

[Redacted signature]

OLGA STANFORD, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	
<i>Appellee,</i>	)	ANSWER TO ASSIGNMENTS
	)	OF ERROR
v.)	
	)	ACM 40588
Airman (E-2))	
DOMINIC C. HAYMOND II, USAF	)	Panel No. 1
<i>Appellant.</i>)	

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

ISSUES PRESENTED

I.

**WHETHER [APPELLANT’S] CONSTITUTIONAL RIGHTS
WERE VIOLATED WHEN HE WAS CONVICTED OF AN
OFFENSE WITH NO REQUIREMENT THAT THE COURT-
MARTIAL PANEL (THE FUNCTIONAL EQUIVALENT OF
THE JURY) VOTE UNANIMOUSLY FOR GUILT[?]**

II.

**WHETHER THE GOVERNMENT CAN PROVE 18 U.S.C. §
922 IS CONSTITUTIONAL AS APPLIED TO [APPELLANT]
WHEN HE WAS CONVICTED OF OFFENSES THAT DO
NOT FALL WITHIN THE NATION’S HISTORICAL
TRADITION OF FIREARM REGULATION.**

III.¹

**WHETHER THE FINDINGS OF GUILTY ARE
FACTUALLY INSUFFICIENT BECAUSE THE EVIDENCE
UPON WHICH THEY ARE BASED IS NOT CREDIBLE.**

¹ This issue is raised in the appendix pursuant to United States v. Grostefon, 12 M.J. 431 (C.M.A. 1982).

STATEMENT OF THE CASE

The United States generally accepts Appellant's Statement of the Case.

STATEMENT OF FACTS

CB met Appellant in December 2021 during Security Forces technical school at Lackland AFB in San Antonio, TX. (R. at 400.) The relationship started as friends but by January 2022, the two began dating. (R. at 401-402.) CB testified that during this time she believed Appellant loved her and that she loved him. (R. at 406.)

On two occasions, the couple decided to go to a hotel room. The second time the couple got a hotel room, CB testified that she and Appellant had intercourse in the bathroom and then she took a shower. (R. at 423.) She said she began having a fever, adding, "I was feeling very cold, and [Appellant] told me that I was running really hot." (Id.) CB continued, "and then I fell asleep because I was sick, and I thought that I was safe." (Id.)

However, CB testified that she woke up to Appellant "laying me on top of him and me waking up with his penis inside my vagina." (R. at 423.) CB said she could not stay awake because she was sick and went back to sleep. She was later woken by Appellant "rushing me to go put my clothes on because we had to leave very suddenly." (R. at 424.) CB recalled asking Appellant "what happened when I was asleep, because I believed that he'd tell me the truth. And then he kept on making up lies about what happened when I was sleeping." CB testified that Appellant began "just making up excuses," such as "Oh, no, that didn't happen. You were just – you were talking in your sleep a lot and dreaming." (Id.) CB said Appellant "made it seem like I was just having a weird dream about him." (Id.)

CB testified that she broke up with Appellant soon after that, but at one point wanted to get back with him because she was "lonely and I still loved him." (R. at 426.) CB said she

called Appellant, who told her that he still loved her, but that the couple should not get back together. (R. at 427.)

A few months later, CB testified that she called Appellant “because I couldn’t stop thinking about what happened to me when I was sleeping.” (Id.) CB said that Appellant “told me that he was sorry and he begged me not to tell anybody.” (Id.)

On cross-examination, CB was asked, “And you said you woke up and you were on top of him. Is that right?” (R. at 458.) CB responded, “Yes. He had placed me on top of him.” (Id.)

Later, a member asked the question, “At what point was [Appellant] informed that you were not fully awake, or aware of what was going on during the last sexual act during the second hotel stay? Did he tell you, or did you tell him?” (R. at 587.) CB responded, “Well, I assumed that he knew, because I had a fever, he told me I had a fever, and then I went to sleep. And I don’t think that he assumed that I was awake when my eyes were closed and I was still. And then even after this, I did – I asked him what he did to me when I was sleeping.” (Id.)

The Air Force Office of Special Investigations (AFOSI) interviewed Appellant during its investigation. (*See* Pro. Exs. 1-5.) On the occasion in question, Appellant said the two had sex, ordered food, and “we just laid there [sic] we took a nap.” (Pros. Ex. 2; R. at 338.) Appellant told AFOSI, “We just laid there, we cuddled, and then we kind of just fell asleep. And she fell asleep first. I was on kickoff [phonetic] for about maybe another 30 minutes before I actually passed out.” (Pros. Ex. 2; R. at 339.)

Appellant continued, “We went to sleep around, like, 11:00-ish, 11:30, and woke up around 2:00 because we were just going to take a little nap and then go back to base,” adding that

he was awake about 30 minutes after CB fell asleep and was “scrolling through” his phone.

(Pros. Ex. 3; R. at 369.) Appellant then said the following:

So when I was scrolling through TikTok, my feed was filled with a bunch of, like, sex fun facts, everything like that. So I was, like, looking through those. I was laughing at them and everything. Every now and then I would, like, shake her up. I’d shake her, like, [inaudible].

And then I, like – I was ready to go to bed and everything, but my arm was falling asleep, so it was hard to get comfortable. So I asked her to roll over a little bit so I can get some circulation back, and when she did, she put her leg over my – over my waist and put her head closer on my chest. And when she did that, I got horny again I guess. I guess I tried to initiate something without being fully aware of it, and then I guess I know that she wasn’t at all aware of anything that was going on.

(Pros. Ex. 4; R. at 386.)

Appellant continued:

So after she draped her leg over my waist and put her head on my chest, I still couldn’t feel circulation in my arms. So I decided to, like, try and shift her more. And at that point in time she was laying on top of me. She looked peaceful, like, nothing could ever hurt her. I literally told her that the day that we got together that I would not be the one that hurt her. And in the end, I was the one that hurt her.

But while she was laying on top of me, my little me – is what I’m going to call him – that I stood up and – you know – my dazed state took over. There’s this meme that I laughed at, at one point in time. It was saying that men have [inaudible] at one point in time, and I just thought it was some chaotic thing – you know – [inaudible] control anything is the one with the brain. But in realistic, you’re not in the right the right state of mind at all. You make dumb decisions. And that’s because you’re not thinking logically, you’re thinking with instincts. You’re thinking with urges, you’re thinking with your desires. I just – I don’t care what kind of punishment I get for this, I just want to be able to apologize to her.

(Pros. Ex. 4; R. at 388.)

When AFOSI asked, “So like, when you were having those urges, what did you do at that time,” Appellant responded as follows:

I sat myself up. I sat her down on me. I would penetrate and – I’m sorry, I’m getting flashbacks as I’m going through this. And once I did penetrate, I laid back down and proceeded to move until just before I finished, I pulled out and everything. It was about maybe – I don’t think it was 30 seconds after I started it that I pulled out and everything and I rolled her off to the side and I just sat up and just started thinking, “What did I just do?”

(Pros. Ex. 4; R. at 389.)

When asked what CB was doing during this time, Appellant said, “She was half awake. She wasn’t fully awake. She was aware that I was doing that. She didn’t ask me to stop or anything. But she was confused as to what was going on.” (Id.) When asked how he could tell CB was “only half asleep and half awake,” Appellant said, “Because she was – she was making small movements herself. Whenever I asked her, she was awake or anything like that, or if she was actually participating, she wasn’t fully giving, like, a full answer.” (Id.) Appellant continued, “I don’t know if she fully knew what was going on. I don’t know if she thought it was a dream. I don’t know if she knew for a fact that it was happening and she was okay with it. I don’t know. All I know is I really just hurt the one person I never wanted to hurt.” (Pros. Ex. 4; R. at 390.)

Appellant and the AFOSI special agent (SA) then had the following exchange:

AFOSI SA: I know it’s probably really painful to do this, but I just want to be sure that we know exactly what happened and know exactly the truth that you’re giving us. So I’m going to kind of summarize it, and if I say anything that’s incorrect, then please fix me, okay?

Appellant: Got it.

AFOSI SA: But basically – you know – you guys were at that hotel room. You laid down to go to bed, and you kind of stayed up, and you were watching TikTok on your phone. You saw some sexually themed stuff on TikTok and you kind of got in the mood to have sex again while laying in bed. Her leg was on you and you kind of knew that she was probably asleep. And then you pulled her on top of you and then inserted your penis into her vagina, then penetrated her for a few minutes.

Appellant: Not a few minutes.

AFOSI SA: How long was it?

Appellant: I'd say 30 seconds.

AFOSI SA: 30 seconds. Thank you. And then after that, you stopped, and you kind of rolled over and you said that you were shaking and she kind of put her hand on you and said it was okay. Did I miss anything?

Appellant: No.

(Pros. Ex. 5; R. at 394.)

Additional facts necessary to the disposition of this case are discussed in the specific issues below.

ARGUMENT

I.

THE UNITED STATES DID NOT VIOLATE APPELLANT'S RIGHTS IN NOT REQUIRING A UNANIMOUS VERDICT AT APPELLANT'S MILITARY COURT-MARTIAL.

Standard of Review

The adequacy of a military judge's instructions is reviewed de novo. United States v. Dearing, 63 M.J. 478, 482 (C.A.A.F. 2006) (citations omitted). The constitutionality of a statute is a question of law that is reviewed de novo. United States v. Wright, 53 M.J. 476, 478 (C.A.A.F. 2000) (*citing* United States v. Brown, 25 F.3d 307, 308 (6th Cir. 1994)).

Law and Analysis

In United States v. Anderson, No. ACM 39969, 2022 CCA LEXIS 181, at *55-56 (A.F. Ct. Crim. App. Mar. 25, 2022), this Court rejected the same claims Appellant raises now. Then, as Appellant readily admits, our Superior Court affirmed this Court's decision and definitively held that military members do not have a right to a unanimous verdict at court-martial under the Sixth Amendment, Fifth Amendment due process, or Fifth Amendment equal protection. *See United States v. Anderson*, 83 M.J. 291 (C.A.A.F. 2023), *cert denied*, No 23-437, 144 S. Ct. 1003 (2024). *see also United States v. Cunningham*, 83 M.J. 867 (C.A.A.F. 2023), *cert denied*, No 23-666, 144 S. Ct. 1096 (2024). Accordingly, the military judge did not err in not providing an instruction for a unanimous verdict and Appellant's claim must fail.

II.

THIS COURT DOES NOT HAVE JURISDICTION TO DECIDE WHETHER THE FIREARM PROHIBITION IN THE GUN CONTROL ACT OF 1968, 18 U.S.C. § 922, IS CONSTITUTIONAL BECAUSE IT IS A COLLATERAL ISSUE NOT SUBJECT TO REVIEW UNDER ARTICLE 66, UCMJ.

Additional Facts

On 27 October 2023, Appellant was sentenced to one year and eight months confinement when he was convicted of sexually assaulting another airman while she slept, in violation Article 120, Uniform Code of Military Justice (UCMJ). (R. at 660, 688.) The maximum amount of confinement for Appellant's conviction was 30 years. (R. at 679.)

Both the Staff Judge Advocate's first indorsement to the Statement of Trial Results (STR) and Entry of Judgment (EOJ) in Appellant's case contains the following statements: "Firearm Prohibition Triggered Under 18 U.S.C. § 922: Yes." (STR and EOJ, ROT, Vol. 1.)

Standard of Review

The scope and meaning of Article 66, UCMJ, is a matter of statutory interpretation, which is reviewed de novo. United States v. Lepore, 81 M.J. 759, 760-61 (A.F. Ct. Crim. App. 2021).

Law and Analysis

The Courts of Criminal Appeals possess “limited jurisdiction, defined entirely by statute.” United States v. Arness, 74 M.J. 441, 442 (C.A.A.F. 2015) (citation omitted). Appellant acknowledges that the Court of Appeals for the Armed Forces recently rejected the authority of the Courts of Criminal Appeals to address the firearms prohibition notation in the STR under Article 66(d)(1), UCMJ, 10 U.S.C. § 866(d)(1) in United States v. Williams, 82 M.J. 121, 126 (C.A.A.F. 2024). (App. Br. at 7-9.) Still, Appellant claims that this Court may “correct” the alleged error through Article 66(d)(2), UCMJ. (Id. at 9.) Appellant’s assertions are inaccurate for several reasons.

- ***Even if some error was demonstrated, this Court lacks jurisdiction to determine the constitutionality of a collateral issue.***

Appellant’s argument that this Court can simply make the requested “correction” pursuant to Article 66(d)(2) presumes that 18 U.S.C. § 922 is unconstitutional. First, the preliminary question of the statute’s constitutionality far exceeds the scope of this Court’s authority under Article 66(d)(1) and (2), as discussed below. Moreover, the law mandating the prohibition is clear: the Gun Control Act of 1968 makes it unlawful for a person to possess a firearm if he has been, *inter alia*, “convicted in any court of a crime punishable by imprisonment for a term exceeding one year.” 18 U.S.C. § 922(g)(1). Here, Appellant concedes that he was sentenced to one year and eight months. (App. Br. at 2.) While the analysis should

end there, Appellant nonetheless maintains that the statute’s firearm ban should not apply to him because his convictions were not sufficiently violent in nature to overcome his Second Amendment right to bear arms. (App. Br. at 6.) But Appellant’s focus on whether the nature of his crimes should justify a firearm ban – at least for Article 66(d) analysis – is misplaced. Article 66(d)(2) grants courts of criminal appeals the authority to correct facial errors in post-trial documents and to provide appropriate relief for excessive delay in processing. Appellant’s request, on the other hand, asks this Court to declare a federal statute unconstitutional as applied and except him from its application under the guise of a post-trial processing error. (App. Br. at 9-11.)

This Court held in its published opinion in United States v. Vanzant, 84 M.J. 671 (A.F. Ct. Crim. App. 2024), that 18 U.S.C. § 922(g)’s firearm prohibitions and the criminal indexing requirements that follow that statute are collateral consequences of the conviction, rather than elements of the findings or sentence, so they are beyond the scope of this Court’s jurisdiction under Article 66, UCMJ. Id. at *24. The Vanzant opinion was clear as to the scope of its jurisdiction under Article 66, UCMJ, and Appellant provides no support in his position that this Court has the authority to amend post-trial documents beyond correcting clerical errors related to the findings or sentence.

Likewise, Appellant is not entitled to relief under Article 66(d)(2), UCMJ. A CCA “*may* provide appropriate relief if the accused demonstrates error or excessive delay in the processing of the court-martial *after* the judgment was entered into the record under section 860c of this title[.]” (emphasis added).

The 18 U.S.C. § 922 annotation was entered into the record before the EOJ was entered into the record. The 18 U.S.C. § 922 annotation on the First Indorsement of the STR is attached

to the STR as “other information” under R.C.M. 1101(a)(6), and then both the other information and the STR are entered into the record. Article 60(1)(C). Then the EOJ is entered into the record – after the STR. The EOJ is “the judgment of the court” cited in Article 66(d)(2).

Compare Article 66 *with* Article 60c. Because the STR and the First Indorsement are entered into the record before the EOJ is entered into the record under Article 60c, the § 922 annotation on the STR’s First Indorsement is not an error occurring “*after* the judgment was entered into the record.” Article 66(d)(2) (emphasis added).

Then the STR and its First Indorsement are entered into the record again as attachments to the EOJ. Article 60c (a)(1)(A). Because they are entered again as attachments to the EOJ they are simultaneous with the judgment of the court. The STR and the STR’s First Indorsement are not errors occurring after the judgment was entered into the record.

- ***No meaningful remedy is available.***

Appellant suggests that this Court should remand the record back to the military judge to correct the “EOJ’s unconstitutional prohibition” or grant other relief it deems appropriate. (App. Br. at 11.) First, it is unclear how the military judge could accomplish such a change to the SJA’s indorsement. Then, even if removal of the firearms prohibition notation to the First Indorsement to the EOJ were possible, it would be a pyrrhic victory. An amendment to the EOJ’s indorsement would not remove the firearms annotation from the STR that was incorporated into the EOJ (*EOJ*, ROT, Vol. 1, Attach. at 5) because that annotation on the STR occurred before the EOJ was entered into the record.

The statute’s application is not triggered by a First Indorsement notation nor is it within the SJA’s discretion. More plainly stated, the SJA’s notation on the First Indorsement does not

disqualify Appellant from possessing firearms; § 922 does. The SJA's notation simply ensures proper criminal indexing. Similarly, even if Appellant's proposed course of action were sufficient to accomplish the removal of Appellant's firearm prohibition from the National Criminal Background Check System (NICS), it would still be unlawful for Appellant to possess a firearm pursuant to 18 U.S.C. § 922(g)(1). Thus, Appellant would remain in the same situation he is in now.

Since this Court's intervention under Article 66(d)(2) would not provide meaningful relief, this Court should deny Appellant's claim.

III.²

APPELLANT'S CONVICTION IS FACTUALLY SUFFICIENT.

Standard of Review and Law

The test of factual sufficiency is governed by the following amendment to Article 66(d)(1), UCMJ:

(B) Factual sufficiency review

(i) [T]he Court may consider whether the finding is correct in fact upon request of the accused if the accused makes a specific showing of a deficiency in proof.

(ii) After an accused has made such a showing, the Court may weigh the evidence and determine controverted questions of fact subject to—

(I) appropriate deference to the fact that the trial court saw and heard the witnesses and other evidence; and

(II) appropriate deference to findings of fact entered into the record by the military judge.

² This issue is raised in the appendix pursuant to Grosteфон.

(iii) If, as a result of the review conducted under clause (ii), the Court is clearly convinced that the finding of guilty was against the weight of the evidence, the Court may dismiss, set aside, or modify the finding, or affirm a lesser finding.

National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, Section 542(b), 134 Stat. 3611-12.

Thus, whereas the former Article 66(d)(1), UCMJ, required service courts to conduct a *de novo* review of factual sufficiency in every case, the amended Article 66(d)(1)(B)(i), UCMJ, eliminates that duty absent an appellant (1) asserting an assignment of error, and (2) showing a deficiency of proof. *See United States v. Harvey*, 85 M.J. 127, 130 (C.A.A.F. 2024).

Though our superior Court has not yet addressed what constitutes a “specific showing of a deficiency of proof,”³ the Navy-Marine Corps Court of Criminal Appeals (NMCCA) has held that “a general disagreement with a verdict falls short of a specific showing of a deficiency in proof, and thus will not trigger a full factual sufficiency analysis.” *United States v. Valencia*, 85 M.J. 529, 535 (N-M. Ct. Crim. App. 2024).⁴ Instead, “an appellant must identify a weakness in the evidence admitted at trial to support an element (or more than one element) and explain why, on balance, the evidence (or lack thereof) admitted at trial contradicts a guilty finding.” *Id.*

The requirement of “appropriate deference” when a Court of Criminal Appeals weighs the evidence and determines controverted questions of fact “depend[s] on the nature of the evidence at issue.” *Harvey*, 85 M.J. at 130. This Court has discretion to determine what level of

³ *See Harvey*, 85 M.J. at 130.

⁴ Our superior Court has granted review of the NMCCA’s decision on the following issue: Whether the lower court erred when it concluded Appellant’s claim of factual insufficiency did not trigger a factual sufficiency review under Article 66, UCMJ. *See United States v. Valencia*, 2025 CAAF LEXIS 202, *1 (C.A.A.F. 14 March 2025).

deference is appropriate. Id. “[T]he quantum of proof necessary to sustain a finding of guilty during a factual sufficiency review is proof beyond a reasonable doubt, the same as the quantum of proof necessary to find an accused guilty at trial.” Id. at 131. For this Court “to be clearly convinced that the finding of guilty was against the weight of the evidence, two requirements must be met.” Id. at 132. First, this Court must decide that the evidence, as it weighs it, “does not prove that the appellant is guilty beyond a reasonable doubt.” Id. Second, this Court “must be clearly convinced of the correctness of this decision.” Id.

This Court’s “assessment of . . . factual sufficiency is limited to the evidence produced at trial.” United States v. Rodela, 82 M.J. 521, 525 (A.F. Ct. Crim. App. 2021) (*citing United States v. Dykes*, 38 M.J. 270, 272 (C.M.A. 1993)), *rev. denied*, 82 M.J. 312 (C.A.A.F. 2022).

The military judge instructed the members as to the elements of the sexual assault, pursuant to Article 120, UCMJ, as follows:

- (1) that between on or about 1 February 2022, and on or about 15 March 2022, in or near San Antonio, Texas, [Appellant] committed a sexual act upon [CB] by penetrating her vulva with his penis;
- (2) that [Appellant] did so when [CB] was asleep; and
- (3) that [Appellant] knew or reasonably should have known that CB was asleep.

(R. at 593.) The military judge defined “sexual act” as “the penetration, however slight, of the penis into the vulva.” (Id.)

Analysis

The panel at Appellant’s court-martial correctly found Appellant guilty of sexual assault, and there is no credible basis in the record for this Court to disturb Appellant’s just verdict and sentence. Here, the United States presented the panel with ample evidence to convince them of

Appellant's guilt beyond a reasonable doubt. This Honorable Court should equally be convinced and affirm Appellant's convictions.

To begin, Appellant's post-trial declaration, submitted to this Court in a motion on 22 May 2025 that the Court granted on 6 June 2025, should be *wholly* discounted by this Court.⁵ Neither Appellant's declaration nor any of the information contained within the declaration were presented as evidence at Appellant's trial. As this Court's assessment of factual sufficiency is "limited to the evidence produced at trial,"⁶ this Court is restricted from utilizing Appellant's declaration in any fashion in its factual sufficiency review of this case.

Notably, Appellant had an avenue to present these matters such that this Court could utilize them in its factual sufficiency review – by testifying at his court-martial and being subject to cross-examination regarding the matters contained in his declaration. However, as was his right, Appellant chose not to testify. Thus, the extra-record material contained within his present declaration never became evidence produced his trial. Accordingly, pursuant to well-established case law on the matter, this Court is foreclosed from utilizing any information contained within Appellant's declaration for this issue.⁷

⁵ While this Court granted Appellant's motion, the "defer[red] consideration of the applicability of United States v. Jessie, 79 M.J. 437 (C.A.A.F. 2020), and related case law to the attachment until it completes its Article 66, UCMJ, 10 U.S.C. § 866, review of Appellant's entire case." (See Order, dated 6 June 2025.)

⁶ See Rodela, 82 M.J. at 525.

⁷ As consideration of Appellant's post-trial declaration is clearly not appropriate with regards to the issue of the factual sufficiency of his conviction, the Government will not address the application of Jessie to Appellant's declaration other than to say Appellant has failed to meet the burden required by Jessie.

Removing all references to his post-trial declaration, Appellant's brief fails to make a specific showing of a deficiency a proof, which is his burden to bear under the new factual sufficiency standard.⁸ Here, instead of making a specific showing of a deficiency of proof, Appellant simply attacks CB's credibility and attempts to re-litigate his case by making the same arguments he made at trial regarding CB's testimony.

What Appellant fails to mention at all in his brief, however, is CB's clear testimony that Appellant penetrated her while she was asleep. (*See* R. at 423-26.) None of this portion of CB's testimony is cited or mentioned in Appellant's brief. Most importantly, Appellant never argues in his brief that intercourse did not occur, that CB was awake, or that he thought she was awake, all of which make up the three elements of Appellant's conviction.

Appellant's lack of argument on these crucial points are likely because of the other clear evidence in this case – Appellant's plain admission that he had sexual intercourse with CB while she was asleep. Appellant admitted that (1) CB was asleep beside him and had been asleep for at least 30 minutes; (2) he became "horny again" while scrolling through TikTok on his phone; (3) CB "wasn't at all aware of anything that was going on;" (4) he had "urges" and "desires;" (5) he sat up and pulled CB on top of him; (6) he penetrated her for 30 seconds; and (7) CB was "confused as to what was going on" as she became "half awake," but not "fully awake" after he began penetrating her. (R. at 369, 386, 388-89.)

Here, both CB (through her testimony) and Appellant (through his admissions to AFOSI) agreed that Appellant (1) sexually penetrated CB; (2) while CB was asleep; and (3) Appellant

⁸ Though this Court is foreclosed from including Appellant's declaration as part of its review, the Government maintains that even if this Court could consider Appellant's declaration, he still fails to make a specific showing of a deficiency of proof.

knew she was asleep when he began penetrating her. These facts, which show clear proof of all three elements of Appellant's conviction, are not contradicted by Appellant in his brief.

Considering Appellant failed to make a specific showing of a deficiency of proof for any of these elements, this Court is thus foreclosed from further review of Appellant's factual sufficiency claim.

Yet even if this Court finds Appellant made a specific showing of a deficiency of proof, Appellant's claim still fails. After making the appropriate deference to the trial court hearing the witnesses at trial, the Court should not be clearly convinced that the finding of guilty was against the weight of the evidence.

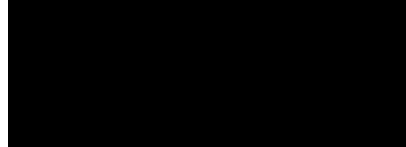
Here again, CB testified that she went to sleep lying next to Appellant and awoke to find herself on top of Appellant and Appellant penetrating her. (R. at 423-26.) Appellant's admissions to AFOSI corroborated CB's testimony as he acknowledges that CB was sleeping next to him, he got "horny again," pulled the sleeping CB on top of him, and began penetrating her. Again, Appellant disputes none of this evidence in his Grostepon issue to this Court. He never claims he did not penetrate CB, or that CB was awake, or that he did not know that CB was asleep. Moreover, to this last element, even if Appellant did claim he did not know CB was asleep (which he does not), a reasonable person in these circumstances would have known CB was asleep considering the circumstances.

Here, the evidence produced at trial plainly showed (1) Appellant's penis penetrated CB's vulva; (2) while CB was asleep; and (3) Appellant knew she was asleep. Considering all of these facts and circumstances, the Government provided the panel ample evidence of Appellant's guilt beyond a reasonable doubt. Here, Appellant has failed to make a specific showing of a deficiency of proof as to his sexual assault conviction. Yet even if he had, after giving the

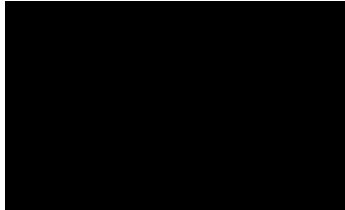
appropriate deference to the trial court hearing the witnesses at trial, the Court should not be clearly convinced that the finding of guilty was against the weight of the evidence. Accordingly, Appellant's factual sufficiency claim must fail.

CONCLUSION

WHEREFORE, this Court should deny Appellant's claims and affirm the findings and sentence.

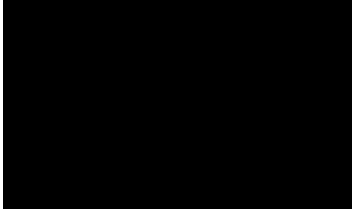


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CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court, appellate counsel, and the Air Force Appellate Defense Division on 23 June 2025 via electronic filing.



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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME TO
	)	FILE A REPLY BRIEF (FIRST)
v.)	
	)	Before Panel No. 1
Airman (E-2))	
DOMINIC C. HAYMOND II,	)	No. ACM 40588
United States Air Force,)	
<i>Appellant.</i>	)	23 June 2025

**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 a first enlargement of time to file a reply brief. The Government filed its Answer to the Brief on Behalf of Appellant on 23 June 2025. By operation of Rule 18(d), Appellant’s reply brief is currently due on 30 June 2025. Appellant requests an enlargement for a period of three days, which will end on **3 July 2025**. The record of trial was docketed with this Court on 11 March 2024. From the date of docketing to the present date, 469 days have elapsed. On the date requested, 479 days will have elapsed.

To the extent exceptional circumstances are required to grant this motion, Appellant’s imminent release from confinement and the potential impact on his ability to communicate with undersigned counsel during the seven-day timeframe to file a reply constitute exceptional circumstances. Appellant is scheduled to be released from confinement on Thursday, 26 June 2025, and plans to travel across the country to stay with family following his release. Appellant’s release and subsequent travel may temporarily interrupt his means of communication with counsel, and the requested three-day enlargement of time will ensure sufficient opportunity to fully consult with counsel regarding his reply brief.

On 20–27 October 2023, a general court-martial consisting of officer and enlisted members at Robins Air Force Base, Georgia, found Appellant guilty, contrary to his pleas, of one charge and one specification of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920. R. at 660; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), 30 November 2023. The military judge sentenced Appellant to be reprimanded, to be reduced to the grade of E-1, to forfeit all pay and allowances for twenty months, to be confined for one year and eight months, and to be discharged from the service with a dishonorable discharge. R. at 688; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Airman Dominic C. Haymond*, 20 November 2023.

The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, forty-two appellate exhibits, and one court exhibit; the transcript is 689 pages. Appellant is currently confined.

Undersigned counsel is currently representing forty clients; twenty-five clients are pending initial AOE's before this Court. Additionally, one client has an upcoming petition for grant of review and supplement to the petition before the Court of Appeals for the Armed Forces (CAAF). This reply brief is currently counsel's highest priority amongst matters pending before this Court.

An enlargement of time is necessary to allow Appellant to fully consult with counsel regarding a reply brief. Appellant was provided an update of the status of counsel's progress on Appellant's case, was advised of this request for an enlargement of time, and agrees with this request for an enlargement of time.

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 were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 23 June 2025.

Respectfully submitted,

A solid black rectangular box used to redact the signature of Frederick J. Johnson.

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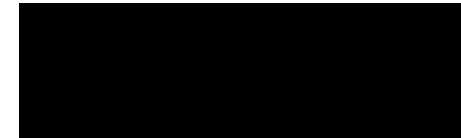
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' NON-
	)	OPPOSITION TO APPELLANT'S
<i>Appellee,</i>	)	MOTION FOR ENLARGEMENT
	)	OF TIME FOR REPLY BRIEF
v.)	
)	
	)	Before Panel No. 1
Airman (E-2))	
DOMINIC C. HAYMOND II,	)	No. ACM 40588
United States Air Force,)	
<i>Appellant.</i>)	
	)	25 June 2025

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States does not oppose to Appellant's Motion for Enlargement of Time to file a reply brief in this case.

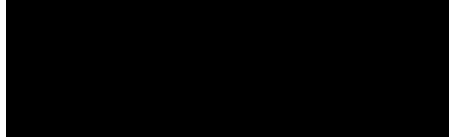
WHEREFORE, the United States respectfully requests that this Court grant Appellant's enlargement motion.



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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 June 2025.



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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee,

v.

Airman (E-2)

DOMINIC C. HAYMOND II,

United States Air Force,

Appellant.

REPLY BRIEF ON BEHALF OF
APPELLANT

Before Panel No. 1

No. ACM 40588

1 July 2025

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

Appellant, Airman (Amn) Dominic C. Haymond II, pursuant to Rule 18(d) of this Honorable Court's Rules of Practice and Procedure, files this Reply to the United States' Answer to Assignments of Error (June 23, 2025) (Ans.). In addition to the arguments in the Br. on Behalf of Appellant (May 22, 2025), Amn Haymond submits the following additional arguments.¹

II.

The government cannot prove 18 U.S.C. § 922 is constitutional as applied to Airman Haymond because he was convicted of offenses that do not fall within the nation's historical tradition of firearm regulation.


After Amn Haymond filed his initial brief on 22 May 2025, the United States Court of Appeals for the Armed Forces (CAAF) issued its opinion in *United States v. Johnson*, __ M.J. __, No. 24-0004/SF, 2025 CAAF LEXIS 499 (C.A.A.F. June 24, 2025). Amn Haymond acknowledges that the CAAF held that this Court lacks the authority to act upon the indication of a firearms prohibition under 10 U.S.C. § 922. *Id.* at *2. However, Amn Haymond asserts that *Johnson* was wrongly decided and maintains that the firearms prohibition indicated on the first

¹ Additionally, Amn Haymond personally responds to the Government's arguments regarding the issue he personally raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982). *See* Appendix.

indorsement to the Entry of Judgment is unconstitutional, as applied, under *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022). He does not concede this issue but rather continues to raise it for preservation purposes.

WHEREFORE, Amn Haymond respectfully requests that this Court hold 18 U.S.C. § 922 is unconstitutional as applied to him.

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 Government Trial and Appellate Operations Division on 1 July 2025.

Respectfully submitted,

A black rectangular box redacting the signature of Frederick J. Johnson.

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Appendix

Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), Appellant, Airman (Amn) Dominic Haymond II, through appellate defense counsel, personally responds to the United States' Answer to Assignments of Error (June 23, 2025) (Ans.), with regard to the following matter:

The findings of guilty are factually insufficient because the evidence upon which they are based is not credible.

The Government argued that this Court should wholly discount the information in Amn Haymond's post-trial declaration because it was not presented as evidence at trial. Ans. at 14. However, this Court should consider the declaration because it calls into question the credibility of the evidence presented at trial. Further, the Government asserts that Amn Haymond did not "make a specific showing of a deficiency a [sic] proof." Ans. at 15. Amn Haymond did articulate a deficiency of proof; the evidence is deficient because it lacks credibility. Br. on Behalf of Appellant at Appendix (May 22, 2025).

WHEREFORE, Amn Haymond personally and respectfully requests that this Court set aside the findings of guilty and the sentence.