

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

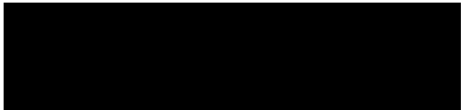
<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (FIRST)</b>
	)	
v.	)	Before Panel No. 1
	)	
Airman (E-2)	)	No. ACM 40339
<b>MASON A. HUBBARD</b>	)	
United States Air Force	)	7 November 2022
<i>Appellant</i>	)	

**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 his first enlargement of time to file Assignments of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **17 January 2023**. The record of trial was docketed with this Court on 19 September 2022. Undersigned counsel requests to withdraw the previously submitted motion for first enlargement of time which inadvertently stated the date of docketing was 12 August 2022 and replace it with the instant motion. From the date of docketing to the present date, 49 days have elapsed. On the date requested, 120 days will have elapsed.

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

Respectfully submitted,




ALEXANDRA K. FLESZAR, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division



**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 7 November 2022.

Respectfully submitted,

  
ALEXANDRA K. FLESZAR, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division



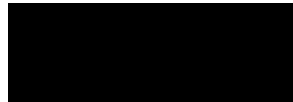
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman (E-2)	)	ACM 40339
MASON A. HUBBARD, 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.

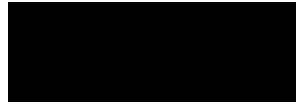


OLIVIA B. HOFF, Capt, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force



**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 9 November 2022.



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



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (SECOND)</b>
	)	
v.	)	Before Panel No. 1
	)	
Airman (E-2)	)	No. ACM 40339
<b>MASON A. HUBBARD</b>	)	
United States Air Force	)	7 December 2022
<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 an enlargement of time (EOT) to file Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **16 February 2023**. The record of trial was docketed with this Court on 19 September 2022. From the date of docketing to the present date, 79 days have elapsed. On the date requested, 150 days will have elapsed.

On 29 June 2022 at Dover Air Force Base, Delaware, Appellant was convicted and sentenced in accordance with his pleas, of one charge and specification of a non-capital assimilated offense, in violation of Article 134, Uniform Code of Military Justice (UCMJ), for possessing a visual depiction of children engaged in a prohibited sexual act. Record (R.) at Vol. 1, Entry of Judgment in the Case of *United States v. Amn Mason A. Hubbard*, dated 26 July 2022 (hereinafter “EOJ”). The military judge sentenced Appellant to four months of confinement, reduction to E-1, reprimand, and bad conduct discharge. *Id.*

On 19 July 2022, the convening authority took no action on the findings or sentence in the case, noting Appellant did not request any deferments of confinement, forfeitures, or reduction in grade, nor waiver of automatic forfeitures. R. at Vol. 1, Convening Authority Decision on Action – *United States v. Airman Mason A. Hubbard*, dated 19 July 2022.

The record of trial consists of three prosecution exhibits; one defense exhibit; and six appellate exhibits; the transcript is 68 pages. Appellant is not confined. Undersigned counsel recognizes this request for enlargement of time could be considered early, as more than four weeks remain in the current time period for submission of the AOE. However, counsel received a recent unanticipated health diagnosis that will ultimately require two surgeries. The first is scheduled for 8 December 2022 and will require 30 days of convalescent leave for follow-up treatment and recovery. Though counsel anticipates having access to email in this time, significant drafting and review time will be lost. Additionally, there is some risk that depending on the outcome of the surgery, alternative counsel may need to be assigned. In an abundance of caution, counsel is requesting this EOT both because the current deadline for the instant EOT falls within the period of convalescent leave and to ensure there is sufficient time for the Appellate Defense Division to assign new counsel, should this ultimately be required. If additional requests for enlargement of time become necessary prior to return from convalescent leave and/or treatment, undersigned counsel will ensure completion through assignment of new or co-counsel.

Through no fault of Appellant's, undersigned counsel has been working on other assigned matters and has not yet started her review of Appellant's case. Accordingly, an enlargement of time is necessary to allow undersigned counsel to review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,

[REDACTED]

ALEXANDRA K. FLESZAR, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 7 December 2022.

Respectfully submitted,

[REDACTED]

ALEXANDRA K. FLESZAR, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]



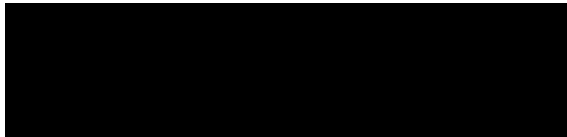
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' RESPONSE
<i>Appellee,</i>	)	TO APPELLANT'S MOTION
	)	FOR ENLARGEMENT OF TIME
v.	)	
	)	
Airman (E-2)	)	ACM 40339
MASON A. HUBBARD, 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 does not oppose Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case. Due to Appellant's counsel's unexpected upcoming surgery, the United States does not oppose this request for an enlargement of time. However, the United States will likely oppose future enlargements of time when counsel or co-counsel becomes available to work on this brief.

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

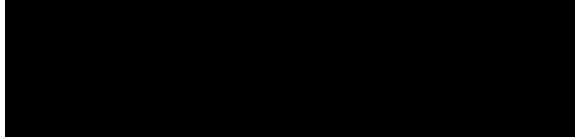


MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



**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 8 December 2022.



MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (THIRD)</b>
	)	
v.	)	Before Panel No. 1
	)	
Airman (E-2)	)	No. ACM 40339
<b>MASON A. HUBBARD</b>	)	
United States Air Force	)	8 February 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time (EOT) to file Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **18 March 2023**. The record of trial was docketed with this Court on 19 September 2022. From the date of docketing to the present date, 142 days have elapsed. On the date requested, 180 days will have elapsed.


On 29 June 2022 at Dover Air Force Base, Delaware, Appellant was convicted and sentenced in accordance with his pleas, of one charge and specification of a non-capital assimilated offense, in violation of Article 134, Uniform Code of Military Justice (UCMJ), for possessing a visual depiction of children engaged in a prohibited sexual act. Record (R.) at Vol. 1, Entry of Judgment in the Case of *United States v. Amn Mason A. Hubbard*, dated 26 July 2022 (hereinafter “EOJ”). The military judge sentenced Appellant to four months of confinement, reduction to E-1, reprimand, and bad conduct discharge. *Id.*

On 19 July 2022, the convening authority took no action on the findings or sentence in the case, noting Appellant did not request any deferments of confinement, forfeitures, or reduction in grade, nor waiver of automatic forfeitures. R. at Vol. 1, Convening Authority Decision on Action – *United States v. Airman Mason A. Hubbard*, dated 19 July 2022.

The record of trial consists of three prosecution exhibits; one defense exhibit; and six appellate exhibits; the transcript is 68 pages. Appellant is not confined. Through no fault of Appellant's, undersigned counsel has been working on other assigned matters and has not yet started her review of Appellant's case. Accordingly, an enlargement of time is necessary to allow undersigned counsel to review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,





ALEXANDRA K. FLESZAR, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division



**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 8 February 2023.

Respectfully submitted,

  
ALEXANDRA K. FLESZAR, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  


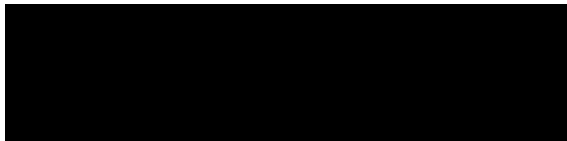
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman (E-2)	)	ACM 40339
MASON A. HUBBARD, USAF,	)	
<i>Appellant.</i>	)	Panel No. 1
	)	

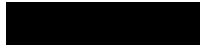
**TO THE HONORABLE, THE JUDGES OF  
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

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.

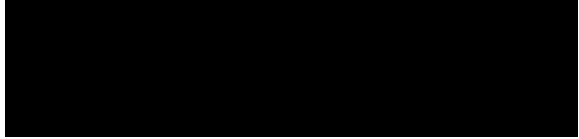


MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



**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 9 February 2023.



MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (FOURTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Airman (E-2)	)	No. ACM 40339
<b>MASON A. HUBBARD</b>	)	
United States Air Force	)	8 March 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time (EOT) to file Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **17 April 2023**. The record of trial was docketed with this Court on 19 September 2022. From the date of docketing to the present date, 170 days have elapsed. On the date requested, 210 days will have elapsed.

On 29 June 2022 at Dover Air Force Base, Delaware, Appellant was convicted and sentenced in accordance with his pleas, of one charge and specification of a non-capital assimilated offense, in violation of Article 134, Uniform Code of Military Justice (UCMJ), for possessing a visual depiction of children engaged in a prohibited sexual act. Record (R.) at Vol. 1, Entry of Judgment in the Case of *United States v. Amn Mason A. Hubbard*, dated 26 July 2022 (hereinafter “EOJ”). The military judge sentenced Appellant to four months of confinement, reduction to E-1, reprimand, and bad conduct discharge. *Id.*



On 19 July 2022, the convening authority took no action on the findings or sentence in the case, noting Appellant did not request any deferments of confinement, forfeitures, or reduction in grade, nor waiver of automatic forfeitures. R. at Vol. 1, Convening Authority Decision on Action – *United States v. Airman Mason A. Hubbard*, dated 19 July 2022.

The record of trial consists of three prosecution exhibits; one defense exhibit; and six appellate exhibits; the transcript is 68 pages. Appellant is not confined, has been informed of his right to speedy appellate review, and consents to this request for enlargement of time.

Through no fault of Appellant’s, undersigned counsel has been working on other assigned matters and has not yet started her review of Appellant’s case. Since filing the last EOT in this case, counsel submitted an AOE before this Court in *United States v. Stradtman*, ACM No. 40237 and *United States v. Thompson*, ACM No. 40019, as well as a Petition for Grant of Review and Supplement to the Petition before the Court of Appeals for the Armed Forces in *United States v. Todd*, ACM S32701, Dkt. No 23-0093. Counsel will be submitting an AOE to this Court in *United States v. Pelletier*, ACM No. 40277, prior to 14 March 2023 and has begun review in *United States v. Lee*, ACM No. 40258. Undersigned counsel is currently assigned 22 cases, 13 of which are pending initial AOE before this Court. Four cases have priority for submission of the AOE to this Court:

1. *United States v. Pelletier*, ACM No. 40277 – The record of trial consists of three prosecution exhibits; 21 defense exhibits; and five appellate exhibits; the transcript is 83 pages. Counsel has begun review of Appellant’s case, identified at least one potential error, and begun drafting the AOE. Counsel anticipates filing a motion to examine sealed materials within the next week. Counsel anticipates filing this AOE no later than 30 March 2023.
2. *United States v. Lee*, ACM No. 40258 – The record of trial consists of five prosecution

exhibits, eleven defense exhibits, and twenty-four appellate exhibits; the transcript is 595 pages. Counsel has begun, but not yet completed review of this appellant's case.

3. *United States v. Haynes*, ACM No. 40306 – The record of trial consists of four prosecution exhibits; 11 defense exhibits; 18 appellate exhibits; and two court exhibits; the transcript is 216 pages. Counsel has not yet begun review of this case.

4. *United States v. Porterie*, ACM No. S32735 – The record of trial consists of seven prosecution exhibits; five appellate exhibits; and one court exhibit. The transcript is 87 pages. Counsel has not yet begun review of this case.

Through no fault of Appellant's, undersigned counsel has been working on other assigned matters and has not yet started her review of Appellant's case. Accordingly, an enlargement of time is necessary to allow undersigned counsel to review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,

[Redacted signature]

aj, USAF



Appellate Defense Counsel  
Air Force Appellate Defense Division

[Redacted contact information]

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 8 March 2023.

Respectfully submitted,

  
ALEXANDRA K. FLESZAR, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  


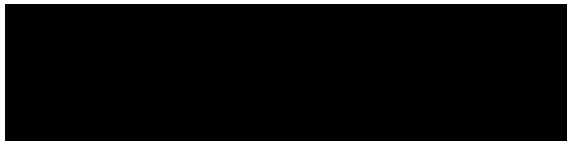
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman (E-2)	)	ACM 40339
MASON A. HUBBARD, 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.

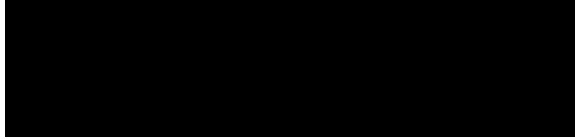


MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force

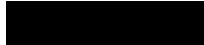


**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force  
Appellate Defense Division on 8 March 2023.



MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (FIFTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Airman (E-2)	)	No. ACM 40339
<b>MASON A. HUBBARD</b>	)	
United States Air Force	)	7 April 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time (EOT) to file Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **17 May 2023**. The record of trial was docketed with this Court on 19 September 2022. From the date of docketing to the present date, 200 days have elapsed. On the date requested, 240 days will have elapsed.

On 29 June 2022 at Dover Air Force Base, Delaware, Appellant was convicted and sentenced in accordance with his pleas, of one charge and specification of a non-capital assimilated offense, in violation of Article 134, Uniform Code of Military Justice (UCMJ), for possessing a visual depiction of children engaged in a prohibited sexual act. Record (R.) at Vol. 1, Entry of Judgment in the Case of *United States v. Amn Mason A. Hubbard*, dated 26 July 2022 (hereinafter “EOJ”). The military judge sentenced Appellant to four months of confinement, reduction to E-1, reprimand, and bad conduct discharge. *Id.*

On 19 July 2022, the convening authority took no action on the findings or sentence in the case, noting Appellant did not request any deferments of confinement, forfeitures, or reduction in grade, nor waiver of automatic forfeitures. R. at Vol. 1, Convening Authority Decision on Action – *United States v. Airman Mason A. Hubbard*, dated 19 July 2022.

The record of trial consists of three prosecution exhibits; one defense exhibit; and six appellate exhibits; the transcript is 68 pages. Appellant is not confined, has been informed of his right to speedy appellate review, and consents to this request for enlargement of time.

Through no fault of Appellant’s, undersigned counsel has been working on other assigned matters and has not yet started her review of Appellant’s case. Since filing the last EOT in this case, counsel submitted a Reply to the Government’s Answer before this Court in *United States v. Stradtman*, ACM No. 40237 and an AOE to this Court in *United States v. Pelletier*, ACM No. 40277.

Counsel will be filing a Reply to the Government’s Answer in *United States v. Thompson*, ACM No. 40019 by 17 April 2023 and completed review and begun drafting an AOE in *United States v. Lee*, ACM No. 40258 for submission by the end of April. Undersigned counsel is currently assigned 19 cases, 12 of which are pending initial AOE before this Court. Three cases have priority for submission of an AOE to this Court:

1. *United States v. Lee*, ACM No. 40258 – The record of trial consists of five prosecution exhibits, eleven defense exhibits, and twenty-four appellate exhibits; the transcript is 595 pages. Counsel has completed review of this case and is drafting an AOE for submission in April 2023.

2. *United States v. Porterie*, ACM No. S32735 – The record of trial consists of seven prosecution exhibits; five appellate exhibits; and one court exhibit. The transcript is 87 pages. Counsel has not yet begun review of this case.

3. *United States v. Haynes*, ACM No. 40306 – The record of trial consists of four prosecution exhibits; 11 defense exhibits; 18 appellate exhibits; and two court exhibits; the transcript is 216 pages. Counsel has not yet begun review of this case.

Through no fault of Appellant's, undersigned counsel has been working on other assigned matters and has not yet started her review of Appellant's case. Accordingly, an enlargement of time is necessary to allow undersigned counsel to review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,

[Redacted signature]

aj, USAF

Appellate Defense Counsel  
Air Force Appellate Defense Division

[Redacted address]



**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 7 April 2023.

Respectfully submitted,

[REDACTED]

ALEXANDRA K. FLESZAR, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

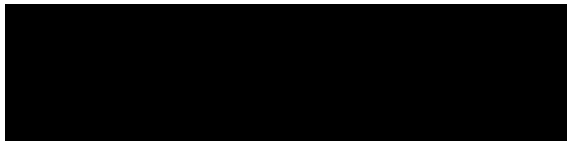
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman (E-2)	)	ACM 40339
MASON A. HUBBARD, 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.

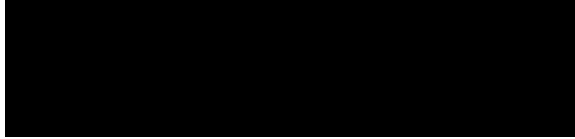


MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force

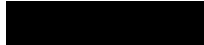


**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force  
Appellate Defense Division on 7 April 2023.



MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



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

UNITED STATES	)	No. ACM 40339
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Mason A. HUBBARD	)	
Airman (E-2)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	Panel 1

On 7 April 2023, counsel for Appellant submitted a Motion for Enlargement of Time (Fifth), requesting an additional 30 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 10th day of April, 2023,

**ORDERED:**

Appellant’s Motion for Enlargement of Time (Fifth) is **GRANTED**. Appellant’s brief will be due **17 May 2023**.

Any subsequent motions for enlargement of time shall, in addition to the matters required under this court’s Rules of Practice and Procedure, include a statement as to: (1) whether Appellant was advised of Appellant’s right to a timely appeal, (2) whether Appellant was advised of the request for an enlargement of time, and (3) whether Appellant agrees with the request for an enlargement of time.



FOR THE COURT



FLEMING E. KEEFE, Capt, USAF  
Deputy Clerk of the Court

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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (SIXTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Airman (E-2)	)	No. ACM 40339
<b>MASON A. HUBBARD</b>	)	
United States Air Force	)	8 May 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time (EOT) to file Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **16 June 2023**. The record of trial was docketed with this Court on 19 September 2022. From the date of docketing to the present date, 231 days have elapsed. On the date requested, 270 days will have elapsed.

On 29 June 2022 at Dover Air Force Base, Delaware, Appellant was convicted and sentenced in accordance with his pleas, of one charge and specification of a non-capital assimilated offense, in violation of Article 134, Uniform Code of Military Justice (UCMJ), for possessing a visual depiction of children engaged in a prohibited sexual act. Record (R.) at Vol. 1, Entry of Judgment in the Case of *United States v. Amn Mason A. Hubbard*, dated 26 July 2022 (hereinafter “EOJ”). The military judge sentenced Appellant to four months of confinement, reduction to E-1, reprimand, and bad conduct discharge. *Id.*

On 19 July 2022, the convening authority took no action on the findings or sentence in the case, noting Appellant did not request any deferments of confinement, forfeitures, or reduction in grade, nor waiver of automatic forfeitures. R. at Vol. 1, Convening Authority Decision on Action – *United States v. Airman Mason A. Hubbard*, dated 19 July 2022.

The record of trial consists of three prosecution exhibits; one defense exhibit; and six appellate exhibits; the transcript is 68 pages. Appellant is not confined, has been informed of his right to speedy appellate review, and consents to this request for enlargement of time.

Through no fault of Appellant’s, undersigned counsel has been working on other assigned matters and has not yet started her review of Appellant’s case. Since filing the last EOT in this case, counsel submitted a Reply to the Government’s Answer before this Court in *United States v. Thompson*, ACM No. 40019 and an AOE to this Court in *United States v. Lee*, ACM No. 40258. Undersigned counsel is currently assigned 18 cases, 10 of which are pending initial AOE before this Court. One case has priority for submission of an AOE to this Court:

1. *United States v. Porterie*, ACM No. S32735 – The record of trial consists of seven prosecution exhibits; five appellate exhibits; and one court exhibit. The transcript is 87 pages. Counsel has completed review of this case and anticipates submitting related filings no later than 9 May 2023.

Additionally, undersigned counsel anticipates filing the following prior to submission of Appellant’s AOE: a Reply to the Government’s Answer in *United States v. Lee*, ACM No. 40258 before this Court by 29 May 2023; and two Supplements to Petitions for Review in *United States v. Dunleavy*, ACM No. S32724 (due 11 May 2023) and *United States v. Rodriguez*, ACM No. 40218 (due 23 May 2023) before the Court of Appeals for the Armed Forces.

Between now and the current due date for this brief, undersigned counsel is also required to attend the Transition Assistance Program on 9-12 May 2023 for her upcoming separation, and is further required to complete base out-processing tasks prior to the start of her terminal leave on 1 June 2023.

Through no fault of Appellant's, undersigned counsel has been working on other assigned matters and has not yet started her review of Appellant's case. Accordingly, an enlargement of time is necessary to allow undersigned counsel to review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,





ALEXANDRA K. FLESZAR, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division



**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 8 May 2023.

Respectfully submitted,

  
ALEXANDRA K. FLESZAR, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  




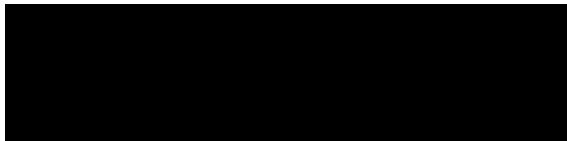
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman (E-2)	)	ACM 40339
MASON A. HUBBARD, 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.

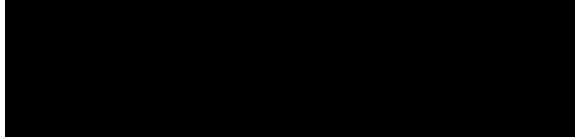


MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



**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 8 May 2023.



MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (SEVENTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Airman (E-2)	)	No. ACM 40339
<b>MASON A. HUBBARD</b>	)	
United States Air Force	)	1 June 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time (EOT) to file Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **16 July 2023**. The record of trial was docketed with this Court on 19 September 2022. From the date of docketing to the present date, 255 days have elapsed. On the date requested, 300 days will have elapsed.

On 29 June 2022 at Dover Air Force Base, Delaware, Appellant was convicted and sentenced in accordance with his pleas, of one charge and specification of a non-capital assimilated offense, in violation of Article 134, Uniform Code of Military Justice (UCMJ), for possessing a visual depiction of children engaged in a prohibited sexual act. Record (R.) at Vol. 1, Entry of Judgment in the Case of *United States v. Amn Mason A. Hubbard*, dated 26 July 2022 (hereinafter “EOJ”). The military judge sentenced Appellant to four months of confinement, reduction to E-1, reprimand, and bad conduct discharge. *Id.*

On 19 July 2022, the convening authority took no action on the findings or sentence in the case, noting Appellant did not request any deferments of confinement, forfeitures, or reduction in grade, nor waiver of automatic forfeitures. R. at Vol. 1, Convening Authority Decision on Action – *United States v. Airman Mason A. Hubbard*, dated 19 July 2022.

The record of trial consists of three prosecution exhibits; one defense exhibit; and six appellate exhibits; the transcript is 68 pages. Appellant is not confined, has been informed of his right to speedy appellate review, and consents to this request for enlargement of time.

Through no fault of Appellant’s, undersigned counsel has been working on other assigned matters and has not yet started her review of Appellant’s case. Maj Fleszar will be commencing terminal leave imminently and will be unable to complete review of the case prior to terminal leave. Maj Bosner has just been assigned as new counsel for Appellant, and has similarly not yet started review of Appellant’s case. Maj Bosner is currently assigned 22 cases; 10 cases are pending initial AOE’s before this Court. Six cases have priority over the present case:

1. *United States v. Gause-Radke*, ACM 40343: The record of trial consists of eight volumes. The transcript is 1,167 pages. There are 14 Prosecution Exhibits, two Defense Exhibits, 42 Appellate Exhibits, and four Court Exhibits. Counsel is drafting the AOE.

2. *In Re HVZ*, Misc. Dkt. No. 2023-03: As counsel for the real party in interest, a brief is due to this Court on 8 June 2023.

3. *United States v. Daddario*, ACM 30351: The record of trial consists of three volumes. The transcript is 77 pages. There are four Prosecution Exhibits, no Defense Exhibits, and five Appellate Exhibits. Counsel is drafting the Brief on Behalf of Appellant.

4. *United States v. McLeod*, ACM 40374: The record of trial consists of eight volumes. The transcript is 533 pages. There are 43 Prosecution Exhibits, two Defense Exhibits, and 42

Appellate Exhibits. Counsel is currently reviewing the record.

5. *United States v. Smith*, ACM 40202: The appellant's petition for grant of review is due to the Court of Appeals for the Armed Forces on 29 June 2023.

6. *United States v. Hernandez-Hernandez*, ACM 40353: The record of trial consists of six prosecution exhibits, three defense exhibits, 16 appellate exhibits, and two court exhibits; the transcript is 198 pages; the transcript is 198 pages.

Through no fault of Appellant's, Maj Bosner has been working on other assigned matters and has not yet started his review of Appellant's case. Accordingly, an enlargement of time is necessary to allow Maj Bosner to review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,

[REDACTED]

ALEXANDRA K. FLESZAR, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

[REDACTED]



DAVID L. BOSNER, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

**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 June 2023.

Respectfully submitted,

  
ALEXANDRA K. FLESZAR, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  


**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.	)	
	)	
Airman (E-2)	)	ACM 40339
MASON A. HUBBARD, USAF,	)	
<i>Appellant.</i>	)	Panel No. 1
	)	

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

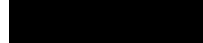
Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time.

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.



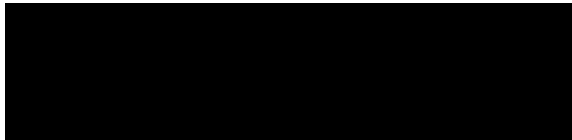
MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force





**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 June 2023.



MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION TO</b>
<i>Appellee,</i>	)	<b>EXAMINE SEALED MATERIAL</b>
	)	
v.	)	
	)	Before Panel No. 1
Airman (E-2)	)	
<b>MASON A. HUBBARD,</b>	)	Case No. ACM 40339
United States Air Force	)	
<i>Appellant</i>	)	Filed on: 8 June 2023
	)	

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

Pursuant to Rules 3.1 and 23.3(f) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves to examine the sealed materials in Appellant’s record of trial: Prosecution Exhibit (Pros. Ex.) 1, Attachment A, which contains contraband, was examined by trial counsel and defense counsel, and ordered sealed by the military judge.

In accordance with R.C.M. 1113(b)(3)(B)(i), which requires a colorable showing that examination of these materials is reasonably necessary to appellate counsel’s responsibilities, undersigned counsel asserts that review of the referenced exhibits is necessary to conduct a complete review of the record of trial and be in a position to advocate competently on behalf of Appellant. A review of the entire record is necessary because this Court is empowered by Article 66(c), Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 866(c), to grant relief based on a review and analysis of “the entire record.” To determine whether the record of trial yields grounds for this Court to grant relief under Article 66(c), UCMJ, 10 U.S.C. §866, counsel must therefore examine “the entire record.”

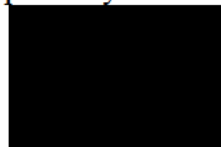
Although Courts of Criminal Appeals have a broad mandate to review the record unconstrained by an appellant's assignments of error, that broad mandate does not reduce

the importance of adequate representation. As we said in *United States v. Ortiz*, 24 M.J. 323, 325 (C.M.A. 1987), independent review is not the same as competent appellate representation.

*United States v. May*, 47 M.J. 478, 481, (C.A.A.F. 1998). The sealed material must be reviewed in order for counsel to provide “competent appellate representation.” *Id.* Therefore, military defense counsel’s examination of sealed materials is reasonably necessary to fulfill their responsibilities in this case, since counsel cannot perform their duty of representation under Article 70, UCMJ, 10 U.S.C. §870, without first reviewing the complete record of trial.

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

Respectfully submitted,



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



**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Appellate Government Division on 8 June 2023.

Respectfully submitted,



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



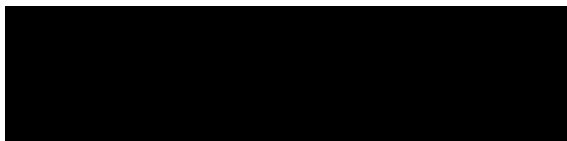
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' RESPONSE
<i>Appellee,</i>	)	TO APPELLANT'S MOTION
	)	TO EXAMINE
v.	)	SEALED MATERIAL
	)	
Airman (E-2)	)	ACM 40339
MASON A. HUBBARD, 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 responds to Appellant's Motion to Examine Sealed Material. The United States does not object to Appellant's counsel reviewing the exhibit listed in Appellant's motion, which was available to all parties at trial, so long as the United States can also review the sealed exhibit as necessary to respond to any assignment of error that refers to the sealed materials. The United States respectfully requests that any order issued by this Court also allow counsel for the United States to view the sealed material.

WHEREFORE, the United States respectfully responds to Appellant's motion.



MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
United States Air Force



**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 8 June 2023.



MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
United States Air Force

