

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee,

v.

TRISTON D. JOHNSON,

Airman First Class (E-3)

United States Air Force

Appellant

) **APPELLANT'S MOTION FOR**
) **ENLARGEMENT OF TIME (FIRST)**

)
) Before Panel No. 2

)
) No. ACM 40291

)
) 1 August 2022

)


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

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time (EOT) to file an Assignment of Errors. Appellant requests an enlargement for a period of 60 days, which will end on **13 October 2022**. The record of trial was docketed with this Court on 15 June 2022. From the date of docketing to the present date, 47 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.

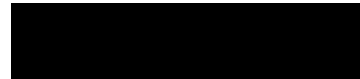
Respectfully submitted,



SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
AF/JAJA
United States Air Force


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 1 August 2022.



SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
AF/JAJA
United States Air Force



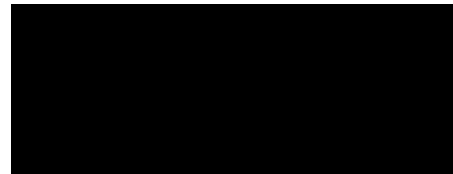
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman First Class (E-3)	)	ACM 40291
TRISTON D. JOHNSON, USAF,)	
<i>Appellant.</i>	)	Panel No. 2
)	

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

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

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



THOMAS J. ALFORD, Lt Col, USAFR
Appellate Government Counsel, 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 August 2022.



THOMAS J. ALFORD, Lt Col, USAFR
Appellate Government Counsel, Government
Trial and Appellate Operations Division
Military Justice and Discipline
United States Air Force



to a reduction to the grade of E-1, total forfeiture of pay and allowances, confinement for a total of 14 months, and a dishonorable discharge. (*Id.* at 2.) The convening authority took no action on the findings or sentence. (ROT, Vol. 1, Convening Authority Decision on Action at 1.) The record of trial consists of 23 appellate exhibits, 28 prosecution exhibits, and 4 defense exhibits. The transcript is 395 pages. Appellant is confined.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters and has yet to complete her review of Appellant's case. This enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors. Undersigned counsel anticipates she will begin review of Appellant's case the week of 24 October 2022.

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

Respectfully submitted,



SAMANTHA P. GOLSETH, Capt, USAF
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 6 October 2022.



SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division



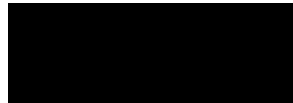
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman First Class (E-3)	)	ACM 40291
TRISTON D. JOHNSON, USAF,)	
<i>Appellant.</i>	)	Panel No. 2
)	

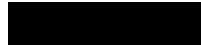
**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

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

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



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



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and the Air Force Appellate Defense Division on 11 October 2022.



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



to a reduction to the grade of E-1, total forfeiture of pay and allowances, confinement for a total of 14 months, and a dishonorable discharge. (*Id.* at 2.) The convening authority took no action on the findings or sentence. (ROT, Vol. 1, Convening Authority Decision on Action at 1.) The record of trial consists of 23 appellate exhibits, 28 prosecution exhibits, and 4 defense exhibits. The transcript is 395 pages. Appellant is confined.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters and has yet to complete her review of Appellant's case, though undersigned counsel has begun review of Appellant's case. This enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,



SAMANTHA P. GOLSETH, Capt, USAF
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 2 November 2022.

[REDACTED]

SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

[REDACTED]

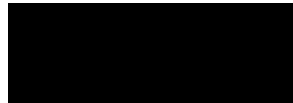
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman First Class (E-3)	)	ACM 40291
TRISTON D. JOHNSON, USAF,)	
<i>Appellant.</i>	)	Panel No. 2
)	

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

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

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



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



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 2 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



to a reduction to the grade of E-1, total forfeiture of pay and allowances, confinement for a total of 14 months, and a dishonorable discharge. (*Id.* at 2.) The convening authority took no action on the findings or sentence. (ROT, Vol. 1, Convening Authority Decision on Action at 1.) The record of trial consists of 23 appellate exhibits, 28 prosecution exhibits, and 4 defense exhibits. The transcript is 395 pages. Appellant is confined.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters and has yet to complete her review of Appellant's case, though undersigned counsel has begun review of Appellant's case and Appellant's case is currently undersigned counsel's first priority before this Court.

Undersigned counsel currently represents 18 clients and is presently assigned 12 cases pending brief before this Court. In addition, undersigned counsel has one case pending petition and supplement before the Court of Appeals for the Armed Forces: *United States v. Zapata*, No. ACM 40048. Since requesting the third EOT in this case, undersigned counsel attended a three-day appellate training in North Carolina; filed a response brief on behalf of the Real Party in Interest in *In Re AL*, Misc, Dkt. No. 2022-12; filed Assignments of Error in *United States v. Lopez*, ACM No. 40161; filed a Supplement to a Petition for Grant of Review in both *United States v. Wermuth*, ACM No. 39856, and *United States v. Baird*, ACM No. 40050; and co-authored an Amicus Brief to the Court of the Appeals for the Armed Forces in *United States v. Gilmet*, USCA Dkt. No. 23-0010/NA.

This enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has been advised of his right to a timely appeal and this request for an enlargement of time, and concurs with this request for an enlargement of time.

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

Respectfully submitted,

A solid black rectangular redaction box covering the signature of Samantha P. Golseth.

SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

A solid black rectangular redaction box covering contact information, including a phone number and an email address.

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 5 December 2022.

[REDACTED]

SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

[REDACTED]

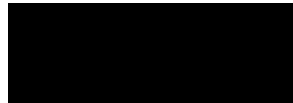
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman First Class (E-3)	)	ACM 40291
TRISTON D. JOHNSON, USAF,)	
<i>Appellant.</i>	)	Panel No. 2
)	

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

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

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



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



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 5 December 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

<p>UNITED STATES <i>Appellee,</i></p> <p align="center">v.</p> <p>TRISTON D. JOHNSON, Airman First Class (E-3) United States Air Force <i>Appellant</i></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>APPELLANT’S MOTION FOR ENLARGEMENT OF TIME (FIFTH)</p> <p>Before Panel No. 2</p> <p>No. ACM 40291</p> <p>3 January 2023</p>
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**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 (EOT) to file Appellant’s Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **10 February 2023**. The record of trial was docketed with this Court on 15 June 2022. From the date of docketing to the present date, 202 days have elapsed. On the date requested, 240 days will have elapsed.

Appellant was tried by a general court-martial composed of a military judge alone at Minot Air Force Base, North Dakota. (Record of Trial (ROT), Vol. 1, Entry of Judgment (EOJ) at 1.) Two specifications were litigated. On 10 March 2022, contrary to Appellant’s pleas, the military judge found Appellant guilty of the Charge and Specification 1, possession of child pornography, excepting the words “photographs and videos” and substituting therefore “a video titled 956020b4-45f6-44ee-8e8d-cf536d70a7aa.mp4,” in violation of Article 134, Uniform Code of Military Justice (UCMJ). (*Id.*) Consistent with Appellant’s pleas, the military judge found Appellant not guilty of Specification 2 of the Charge, distribution of child pornography, in violation of Article 134, UCMJ. (*Id.*) On 10 March 2022, the military judge sentenced appellant

to a reduction to the grade of E-1, total forfeiture of pay and allowances, confinement for a total of 14 months, and a dishonorable discharge. (*Id.* at 2.) The convening authority took no action on the findings or sentence. (ROT, Vol. 1, Convening Authority Decision on Action at 1.) The record of trial consists of 23 appellate exhibits, 28 prosecution exhibits, and 4 defense exhibits. The transcript is 395 pages. Appellant is confined.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters and has yet to complete her review of Appellant's case, though undersigned counsel has begun review of Appellant's case and Appellant's case is currently undersigned counsel's first priority before this Court.

Undersigned counsel currently represents 18 clients and is presently assigned 11 cases pending brief before this Court. In addition, before the United States Court of Appeals for the Armed Forces, undersigned counsel has one case pending an answer, *A.L.*, USCA Dkt. No. 23-0073/AF, Crim App. No. 2022-12, and one case pending petition and supplement, *United States v. Brown*, ACM No. 40066.

This enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has been advised of his right to a timely appeal and 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,

A solid black rectangular redaction box covering the signature of Samantha P. Golseth.

SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

A solid black rectangular redaction box covering the contact information, including a phone number and email address.

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 3 January 2023.



SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division



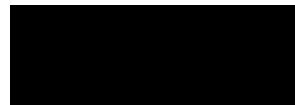
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman First Class (E-3)	)	ACM 40291
TRISTON D. JOHNSON, USAF,)	
<i>Appellant.</i>	)	Panel No. 2
)	

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

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

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



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



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 5 January 2023.



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



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

UNITED STATES	)	No. ACM 40291
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Triston D. JOHNSON)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 2

On 3 January 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 9th day of January, 2023,

ORDERED:

Appellant's Motion for Enlargement of Time (Fifth) is **GRANTED**. Appellant shall file any assignments of error not later than **10 February 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 his 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



ANTHONY F. ROCK, Maj, USAF
Deputy Clerk of the Court

to a reduction to the grade of E-1, total forfeiture of pay and allowances, confinement for a total of 14 months, and a dishonorable discharge. (*Id.* at 2.) The convening authority took no action on the findings or sentence. (ROT, Vol. 1, Convening Authority Decision on Action at 1.) The record of trial consists of 23 appellate exhibits, 28 prosecution exhibits, and 4 defense exhibits. The transcript is 395 pages. Appellant is confined.

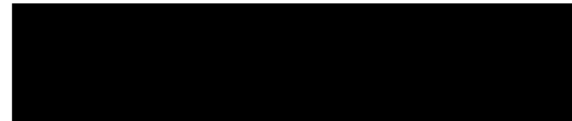
Through no fault of Appellant, undersigned counsel has been working on other assigned matters and has yet to complete her review of Appellant's case, though undersigned counsel has reviewed approximately fifty percent of Appellant's case and Appellant's case is currently undersigned counsel's first priority before this Court.

Undersigned counsel currently represents 17 clients and is presently assigned 12 cases pending brief before this Court. In addition, before the United States Court of Appeals for the Armed Forces, undersigned counsel has one case pending petition for grant of review and supplement to the petition for grant of review, *United States v. Brown*, ACM No. 40066. Since requesting a fifth EOT, undersigned counsel filed an answer on behalf of the Real Party in Interest in the Court of Appeals for the Armed Forces, in *A.L. v. United States and Capt Theodore J. Slusher*, USCA Dkt. No. 23-0073/AF, Crim. App. No. 2022-12, and was on leave for ten days from 21 January 2023 until 31 January 2023.

This enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has been advised of (1) his right to a timely appeal and (2) this request for an enlargement of time, and Appellant 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,

A solid black rectangular redaction box covering the signature of Samantha P. Golseth.

SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

A solid black rectangular redaction box covering the contact information, including the address and phone number of Samantha P. Golseth.

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 1 February 2023.



SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division



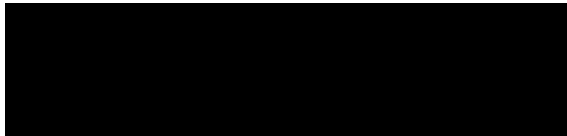
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman First Class (E-3)	)	ACM 40291
TRISTON D. JOHNSON, USAF,)	
<i>Appellant.</i>	)	Panel No. 2
)	

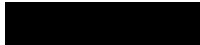
**TO THE HONORABLE, THE JUDGES OF
THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

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

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

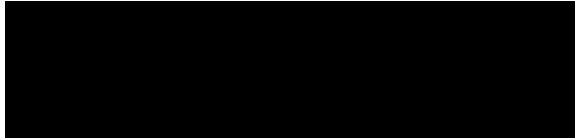


MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force



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 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

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME
	)	(SEVENTH)
v.)	
	)	Before Panel No. 2
TRISTON D. JOHNSON,)	
Airman First Class (E-3)	)	No. ACM 40291
United States Air Force)	
<i>Appellant</i>	)	1 March 2023

**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 (EOT) to file Appellant’s Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **11 April 2023**. The record of trial was docketed with this Court on 15 June 2022. From the date of docketing to the present date, 259 days have elapsed. On the date requested, 300 days will have elapsed.

Appellant was tried by a general court-martial composed of a military judge alone at Minot Air Force Base, North Dakota. (Record of Trial (ROT), Vol. 1, Entry of Judgment (EOJ) at 1.) Two specifications were litigated. On 10 March 2022, contrary to Appellant’s pleas, the military judge found Appellant guilty of the Charge and Specification 1, possession of child pornography, excepting the words “photographs and videos” and substituting therefore “a video titled 956020b4-45f6-44ee-8e8d-cf536d70a7aa.mp4,” in violation of Article 134, Uniform Code of Military Justice (UCMJ). (*Id.*) Consistent with Appellant’s pleas, the military judge found Appellant not guilty of Specification 2 of the Charge, distribution of child pornography, in violation of Article 134, UCMJ. (*Id.*) On 10 March 2022, the military judge sentenced appellant

to a reduction to the grade of E-1, total forfeiture of pay and allowances, confinement for a total of 14 months, and a dishonorable discharge. (*Id.* at 2.) The convening authority took no action on the findings or sentence. (ROT, Vol. 1, Convening Authority Decision on Action at 1.) The record of trial consists of 23 appellate exhibits, 28 prosecution exhibits, and 4 defense exhibits. The transcript is 395 pages. Appellant is confined.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters and has yet to complete her review of Appellant's case. Undersigned counsel currently represents 17 clients and is presently assigned 12 cases pending brief before this Court. Appellant's case is currently undersigned counsel's first priority before this Court and undersigned counsel is currently reviewing Appellant's ROT.

This enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has been advised of his right to a timely appeal and this request for an enlargement of time, and Appellant 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,



SAMANTHA P. GOLSETH, Capt, USAF
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 1 March 2023.



SAMANTHA P. GOLSETH, Capt, 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 First Class (E-3)	)	ACM 40291
TRISTON D. JOHNSON, USAF,)	
<i>Appellant.</i>	)	Panel No. 2
)	

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its 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 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.



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 2 March 2023.



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



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES <i>Appellee,</i>	)	CONSENT MOTION TO EXAMINE SEALED MATERIALS
)	
v.	)	Before Panel No. 2
)	
Airman First Class (E-3)	)	No. ACM 40291
TRISTON D. JOHNSON)	
United States Air Force	)	4 April 2023
<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, undersigned counsel hereby moves this Court to permit appellate counsel for the Appellant and the Government to examine Prosecution Exhibits 11-13, 18-19, 21, and 23.

Facts

On 10 January 2022 and 7-10 March 2022, Appellant was tried by a general court-martial composed of a military judge alone at Minot Air Force Base, North Dakota. Record of Trial (ROT), Vol. 1, Entry of Judgment (EOJ) at 1. Two specifications were litigated. On 10 March 2022, contrary to Appellant’s pleas, the military judge found Appellant guilty of the Charge and Specification 1, possession of child pornography, excepting the words “photographs and videos” and substituting therefore “a video titled 956020b4-45f6-44ee-8e8d-cf536d70a7aa.mp4,” in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. *Id.* Consistent with Appellant’s pleas, the military judge found Appellant not guilty of Specification 2 of the Charge, distribution of child pornography, in violation of Article 134, UCMJ, 10 U.S.C. § 934. *Id.*

During the proceedings, the military judge sealed prosecution exhibits 11-13, 18-19, 21, and 23, which were each admitted into evidence and include contraband. R. at 163-164, 172-173, 184-

185, 200-201, 205, 212-213, 226, 278.

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 *MCM*, 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,"¹ perform "reasonable diligence,"² 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."³ These requirements are consistent with those imposed by the state bar to which counsel belong.⁴

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 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

¹ Air Force Instruction (AFI) 51-110, *Professional Responsibility Program*, Attachment 2: Air Force Rules of Professional Conduct, Rule 1.1 (11 Dec. 2018).

² *Id.* at Rule 1.3.

³ AFI 51-110, Attachment 7: Air Force Standards for Criminal Justice, Standard 4-8.3(b).

⁴ Counsel of record is licensed to practice law in California.

not the same as competent appellate representation.” *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998).

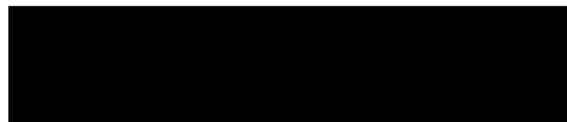
Analysis

Each of the sealed exhibits is an admitted prosecution exhibit which was “presented” and “reviewed” by the parties at trial. It is reasonably necessary for Appellant’s counsel to review these sealed exhibits for counsel to competently conduct a professional evaluation of Appellant’s case and to 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 made 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 viewing the sealed materials detailed above.

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

Respectfully submitted,



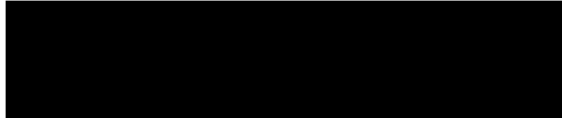
SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division



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 4 April 2023.

Respectfully submitted,

A large black rectangular redaction box covering the signature of Samantha P. Golseth.

SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

A large black rectangular redaction box covering contact information, including a phone number and email address.

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. 2
TRISTON D. JOHNSON,)	
Airman First Class (E-3)	)	No. ACM 40291
United States Air Force)	
<i>Appellant</i>	)	3 April 2023

**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 (EOT) to file Appellant’s Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **11 May 2023**. The record of trial was docketed with this Court on 15 June 2022. From the date of docketing to the present date, 292 days have elapsed. On the date requested, 330 days will have elapsed.

Appellant was tried by a general court-martial composed of a military judge alone at Minot Air Force Base, North Dakota. (Record of Trial (ROT), Vol. 1, Entry of Judgment (EOJ) at 1.) Two specifications were litigated. On 10 March 2022, contrary to Appellant’s pleas, the military judge found Appellant guilty of the Charge and Specification 1, possession of child pornography, excepting the words “photographs and videos” and substituting therefore “a video titled 956020b4-45f6-44ee-8e8d-cf536d70a7aa.mp4,” in violation of Article 134, Uniform Code of Military Justice (UCMJ). (*Id.*) Consistent with Appellant’s pleas, the military judge found Appellant not guilty of Specification 2 of the Charge, distribution of child pornography, in violation of Article 134, UCMJ. (*Id.*) On 10 March 2022, the military judge sentenced appellant

to a reduction to the grade of E-1, total forfeiture of pay and allowances, confinement for a total of 14 months, and a dishonorable discharge. (*Id.* at 2.) The convening authority took no action on the findings or sentence. (ROT, Vol. 1, Convening Authority Decision on Action at 1.) The record of trial consists of 23 appellate exhibits, 28 prosecution exhibits, and 4 defense exhibits. The transcript is 395 pages. Appellant is not confined.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters and has yet to review the sealed materials in Appellant's case and finish drafting Appellant's Assignments of Error. Undersigned counsel currently represents 14 clients and is presently assigned 11 cases pending brief before this Court. Appellant's case is currently undersigned counsel's second priority before this Court, behind *United States v. Ross*, No. ACM 40289, in which undersigned counsel has reviewed the record of trial and is discussing potential assignments of error with the appellant. Undersigned counsel is currently drafting a request to view the sealed materials in this case and has begun drafting Appellant's Assignments of Error. Absent an unforeseen circumstance, undersigned counsel believes this will be Appellant's last motion for an enlargement of time. This enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case, advise Appellant regarding potential errors, and fully brief Appellant's Assignments of Error. Appellant has been advised of his right to a timely appeal and this request for an enlargement of time, and Appellant 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,

A solid black rectangular redaction box covering the signature of Samantha P. Golseth.

SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

A large, irregular black redaction box covering contact information, including what appears to be a phone number and an email address.

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 3 April 2023.

[REDACTED]

SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

[REDACTED]

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 First Class (E-3)	)	ACM 40291
TRISTON D. JOHNSON, USAF,)	
<i>Appellant.</i>	)	Panel No. 2
)	

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its 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 330 days in length. Appellant's nearly year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 7 months combined for the United States and this Court to perform their separate statutory responsibilities.

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



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 4 April 2023.



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



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

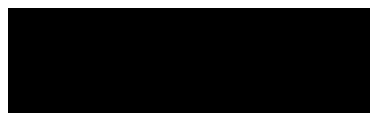
UNITED STATES,)	
<i>Appellee</i>	)	UNITED STATES' STATUS
	)	OF COMPLIANCE
v.)	
)	
Airman First Class (E-3))	
TRISTON D. JOHNSON,	)	Before Panel No. 2
USAF,)	
<i>Appellant.</i>	)	No. ACM 40291

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

On 11 April 2023, this Court determined certain content was missing from Appellant’s record of trial and returned the record to the Chief Trial Judge, Air Force Trial Judiciary, for correction under Rule for Courts-Martial 1112(d). This Court ordered the United States to provide a status of compliance by 2 May 2023 if the record of trial cannot be returned to this Court by 9 May 2023. Because the United States has determined the record of trial cannot be returned to this Court by 9 May 2023, the United States provides its status of compliance below:

Status of Compliance

On 2 May 2023, the legal office at Minot AFB, ND, mailed the content missing from Appellant’s record of trial to Appellant’s trial defense counsel, who is now located at Kadena Air Base, Okinawa, Japan, for review. The United States anticipates it will take another two weeks, until 23 May 2023 to return the record of trial to this Court.



JAY S. PEER, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division

United States Air Force

[REDACTED]

[REDACTED]

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

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Appellate Defense Division on 2 May 2023.

[REDACTED]

JAY S. PEER, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
United States Air Force

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	
<i>Appellee</i>	)	MOTION FOR LEAVE TO FILE
	)	UNITED STATES' STATUS
v.	)	OF COMPLIANCE (SECOND)
)	
Airman First Class (E-3))	
TRISTON D. JOHNSON,	)	Before Panel No. 2
USAF,)	
<i>Appellant.</i>	)	No. ACM 40291

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

Pursuant to Rule 23(d) of this Court’s Rules of Practice and Procedure, the United States moves this Honorable Court for leave to file a second status of compliance with this Court’s 11 April 2023 Order returning the record of trial to the Chief Trial Judge for correction under Rule for Courts-Martial (R.C.M.) 1112(d).

On 11 April 2023, this Court determined certain content was missing from Appellant’s record of trial and returned the record to the Chief Trial Judge, Air Force Trial Judiciary, for correction under R.C.M. 1112(d). This Court ordered the United States to provide a status of compliance by 2 May 2023 if the record of trial cannot be returned to this Court by 9 May 2023. On 2 May 2023, the United States filed a status of compliance in which the United States stated it anticipated it would take until 23 May 2023 to return the record of trial to this Court. As of the date of this filing, the record of trial has not been returned to this Court. Therefore, the United States provides the following status of compliance:

Status of Compliance

On 25 May 2023, the military judge assigned to this case for purposes of the remand confirmed that the content missing from Appellant’s record of trial arrived at Kadena AB, Japan,

earlier that same day. The military judge stated that Appellant's trial defense counsel plans to review the content on Tuesday, 30 May 2023. The United States anticipates this Court will receive the corrected record of trial on 9 June 2023.

Conclusion

WHEREFORE, the United States respectfully requests this Honorable Court grant the United States' motion for leave to file a second status of compliance.

[REDACTED]

JAY S. PEER, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
United States Air Force

[REDACTED]

[REDACTED]

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

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Appellate Defense Division on 25 May 2023.



JAY S. PEER, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
United States Air Force



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS


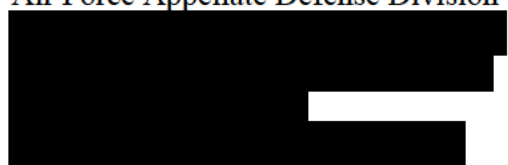
UNITED STATES	)	APPELLANT’S RESPONSE TO
<i>Appellee,</i>	)	MOTION FOR LEAVE TO FILE
	)	UNITED STATES’ STATUS OF
	)	COMPLIANCE (SECOND)
v.)	
	)	Before Panel No. 2
Airman First Class (E-3))	
TRISTON D. JOHNSON	)	No. ACM 40291
United States Air Force)	
<i>Appellant</i>	)	30 May 2023

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

Pursuant to Rule 23.2 of this Honorable Court’s Rules of Practice and Procedure, Airman First Class Triston D. Johnson, Appellant, responds to the United States’ Motion for Leave to File Status of Compliance (Second). Appellant opposes the motion for leave and demands speedy appellate review.

WHEREFORE, Appellant respectfully requests this Court deny the United States’s Motion for Leave to File Status of Compliance (Second).

Respectfully submitted,


SAMANTHA P. GOLSETH, Capt, 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 30 May 2023.

Respectfully submitted,

A large black rectangular redaction box covering the signature of Samantha P. Golseth.

SAMANTHA P. GOLSETH, Capt, 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,)	
<i>Appellee</i>)	MOTION FOR LEAVE TO FILE
	)	UNITED STATES' STATUS
v.	)	OF COMPLIANCE (THIRD)
)	
Airman First Class (E-3))	
TRISTON D. JOHNSON,	)	Before Panel No. 2
USAF,)	
<i>Appellant.</i>	)	No. ACM 40291

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

Pursuant to Rule 23(d) of this Court’s Rules of Practice and Procedure, the United States moves this Honorable Court for leave to file a third status of compliance with this Court’s 11 April 2023 Order returning the record of trial to the Chief Trial Judge for correction under Rule for Courts-Martial (R.C.M.) 1112(d).

On 11 April 2023, this Court determined certain content was missing from Appellant’s record of trial and returned the record to the Chief Trial Judge, Air Force Trial Judiciary, for correction under R.C.M. 1112(d). This Court ordered the United States to provide a status of compliance by 2 May 2023 if the record of trial cannot be returned to this Court by 9 May 2023. On 2 May 2023, the United States filed a status of compliance in which the United States stated it anticipated it would take until 23 May 2023 to return the record of trial to this Court. On 30 May 2023, this Court granted the United States’ motion for leave to file a second status of compliance, dated 25 May 2023, in which the United States stated it anticipated it would take until 9 June 2023 to return the record of trial to this Court. As of the date of this filing, the record of trial has not been returned to this Court. Therefore, the United States provides the following status of compliance:

Status of Compliance

Appellant's trial defense counsel reviewed the missing content on Wednesday, 31 May 2023, at the OSI detachment at Kadena AB, Japan. As of the date of this filing, the missing content has not departed Kadena AB. Once the missing content departs Kadena AB, it will then go to the base legal office at Minot AFB, ND for final review, after which it will be shipped to this Court. The United States is mindful of the need to return the missing content to this Court in an expeditious manner, but also recognizes that previous statuses of compliance were overly optimistic and did not account for unanticipated delays. The United States now anticipates that this Court will receive the corrected record of trial on 7 July 2023.

Conclusion

WHEREFORE, the United States respectfully requests this Honorable Court grant the United States' motion for leave to file a third status of compliance.

[REDACTED]

JAY S. PEER, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
United States Air Force

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Appellate Defense Division on 9 June 2023.



JAY S. PEER, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
United States Air Force



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS


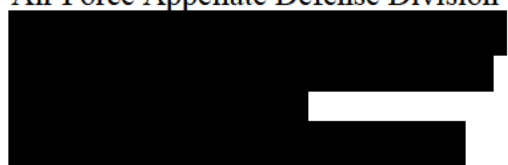
UNITED STATES	)	APPELLANT’S OPPOSITION TO
<i>Appellee,</i>	)	MOTION FOR LEAVE TO FILE
	)	UNITED STATES’ STATUS OF
	)	COMPLIANCE (THIRD)
v.)	
	)	Before Panel No. 2
Airman First Class (E-3))	
TRISTON D. JOHNSON	)	No. ACM 40291
United States Air Force)	
<i>Appellant</i>	)	12 June 2023

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

Pursuant to Rule 23.2 of this Honorable Court’s Rules of Practice and Procedure, Airman First Class Triston D. Johnson, Appellant, responds to the United States’ Motion for Leave to File Status of Compliance (Third). Appellant opposes the motion for leave and demands speedy appellate review.

WHEREFORE, Appellant respectfully requests this Court deny the United States’s Motion for Leave to File Status of Compliance (Third).

Respectfully submitted,


SAMANTHA P. GOLSETH, Capt, 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 12 June 2023.

Respectfully submitted,

A large black rectangular redaction box covering the signature of Samantha P. Golseth.

SAMANTHA P. GOLSETH, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

A black rectangular redaction box covering contact information, including a phone number and email address.

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	
<i>Appellee</i>	)	MOTION FOR LEAVE TO FILE
	)	UNITED STATES' STATUS
v.	)	OF COMPLIANCE (FOURTH)
)	
Airman First Class (E-3))	
TRISTON D. JOHNSON,	)	Before Panel No. 2
USAF,)	
<i>Appellant.</i>	)	No. ACM 40291

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

Pursuant to Rule 23(d) of this Court's Rules of Practice and Procedure, the United States moves this Honorable Court for leave to file a fourth status of compliance with this Court's 11 April 2023 Order returning the record of trial to the Chief Trial Judge for correction under Rule for Courts-Martial (R.C.M.) 1112(d).

On 11 April 2023, this Court determined certain content was missing from Appellant's record of trial and returned the record to the Chief Trial Judge, Air Force Trial Judiciary, for correction under R.C.M. 1112(d). This Court ordered the United States to provide a status of compliance by 2 May 2023 if the record of trial cannot be returned to this Court by 9 May 2023. On 2 May 2023, the United States filed a status of compliance in which the United States stated it anticipated it would take until 23 May 2023 to return the record of trial to this Court. On 30 May 2023, this Court granted the United States' motion for leave to file a second status of compliance, dated 25 May 2023, in which the United States stated it anticipated it would take until 9 June 2023 to return the record of trial to this Court. As of the date of this filing, the record of trial has not been returned to this Court. Therefore, the United States provides the following status of compliance:

Status of Compliance

Appellant's trial defense counsel reviewed the missing content on 31 May 2023, at the OSI detachment at Kadena AB, Japan. On 15 June 2023, the OSI detachment at Kadena AB, Japan, sent the missing content to the OSI detachment at Minot AFB, ND. The missing content was delivered today, 7 July 2023, to the post office on Minot AFB, ND but, as of the time of this filing, has not yet been delivered to its final destination (Minot OSI detachment). As soon as the content is received at the OSI detachment, the Minot Base Legal Office will pick up the content and overnight it via FedEx to JAJM.

The United States is mindful of the need to return the missing content to this Court in an expeditious manner, but also recognizes that previous statuses of compliance were overly optimistic and did not account for unanticipated delays, such as the time it would take the package to clear U.S. Customs and the delays over a federal holiday. The United States now anticipates that this Court will receive the corrected record of trial NLT 21 July 2023.

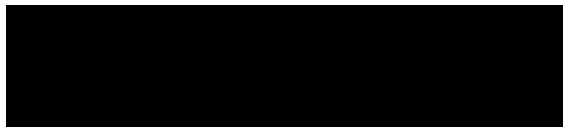
Conclusion

WHEREFORE, the United States respectfully requests this Honorable Court grant the United States' motion for leave to file a fourth status of compliance.


[REDACTED]

MORGAN R. CHRISTIE, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
United States Air Force

[REDACTED]



MARY ELLEN PAYNE
Associate Chief, 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 Appellate Defense Division on 7 July 2023.



MORGAN R. CHRISTIE, Maj, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
United States Air Force

