

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee,

v.

Airman (E-2)

MICHAEL T. LAPEDOTA,

United States Air Force,

Appellant.

**MOTION FOR ENLARGEMENT OF
TIME (FIRST)**

Before Panel No. 0

Case No. ACM S32736

Filed on: 10 October 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 a first enlargement of time to file an Assignment of Errors. Appellant requests an enlargement for a period of 60 days, which will end on 14 December 2022. The record was docketed with this Court on 16 August 2022¹. On the date requested, 120 days will have elapsed from the date this case was docketed.

¹ Although the current deadline for the brief is 15 October 2022, undersigned counsel was notified that the Court was closed on 7 October 2022 and 10 October 2022 and as a result EOTs would be due on 11 October 2022.

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

Respectfully Submitted,

//signedASK10Oct22//
ABHISHEK S. KAMBLI
Major, USAFR
Appellate Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via electronic mail to the Court and served on the Appellate Government Division on 10 October 2022.

//signedASK10Oct22//

ABHISHEK S. KAMBLI

Major, USAFR

Appellate Counsel



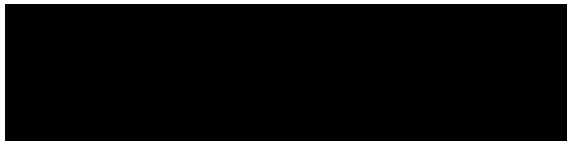
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman (E-2)	)	ACM S32736
MICHAEL T. LAPEDOTA, 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.

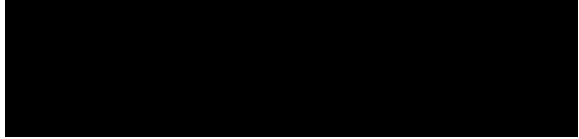


MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force



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 12 October 2022.



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 S32736
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Michael T. LAPEDOTA)	
Airman (E-2))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 2

On 6 December 2022, counsel for Appellant submitted a Motion for Enlargement of Time (Second), requesting “an enlargement for a period of 30 days, which will end on 13 January 2022.” Additionally, Appellant states that “[o]n the date requested, 150 days will have elapsed from the date this case was docketed.” The Government opposes the motion.

This court previously granted Appellant’s Motion for Enlargement of Time (First) on 12 October 2022, which set the deadline for Appellant’s brief to 14 December 2022. This court understands Appellant to be requesting 30 additional days from the current due date, which would set a new deadline of 13 January 2023 and not “13 January 2022.”

Accordingly, it is by the court on this 9th day of December, 2022,

ORDERED:

Appellant’s Motion for Enlargement of Time (Second) is **GRANTED**. Appellant’s brief will be due **13 January 2023**.



F [Redacted Signature]

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee,

v.

Airman (E-2)

MICHAEL T. LAPEDOTA,

United States Air Force,

Appellant.

**MOTION FOR ENLARGEMENT OF
TIME (SECOND)**

Before Panel No. 2

Case No. ACM S32736

Filed on: 6 December 2022

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

Pursuant to Rule 23.3(m)(3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for a first enlargement of time to file an Assignment of Errors. Appellant requests a second enlargement for a period of 30 days, which will end on 13 January 2022. The record was docketed with this Court on 16 August 2022. From the date of docketing to this present date, 112 days have elapsed. On the date requested, 150 days will have elapsed from the date this case was docketed.

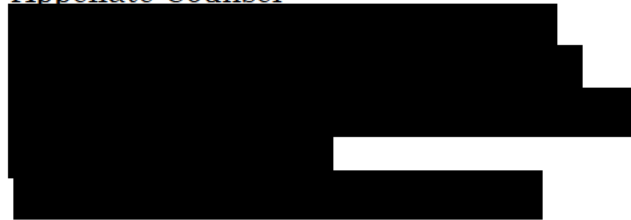
The appellant was sentenced to 120 days total confinement and a bad conduct discharge for one charge and six specifications of violations of Article 112a of the Uniform Code of Military Justice (UCMJ), one additional charge and one specification of a violation of Article 92 of the UCMJ, and one additional charge and one specifications of a violation of Article 112a of the UCMJ. The record of trial consists of 9 prosecution exhibits, 6 defense exhibits, and 3 appellate exhibits; the transcript is 209 pages. Appellant is not currently confined. Undersigned counsel is a reservist

and due to the demands of his civilian job has been unable to complete a review of Appellant's case. Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully Submitted,

//signedASK6Dec22//
ABHISHEK S. KAMBLI
Major, USAFR
Appellate Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via electronic mail to the Court and served on the Appellate Government Division on 6 December 2022.

//signedASK6Dec22//

ABHISHEK S. KAMBLI

Major, USAFR

Appellate Counsel



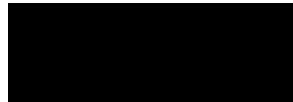
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman (E-2)	)	ACM S32736
MICHAEL T. LAPEDOTA, 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.

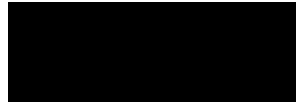


OLIVIA B. HOFF, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force



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 7 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

UNITED STATES

Appellee,

v.

Airman (E-2)

MICHAEL T. LAPEDOTA,

United States Air Force,

Appellant.

**MOTION FOR ENLARGEMENT OF
TIME (THIRD)**

Before Panel No. 2

Case No. ACM S32736

Filed on: 5 January 2023

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for a third enlargement of time to file an Assignment of Errors. Appellant requests a second enlargement for a period of 30 days, which will end on 12 February 2023. The record was docketed with this Court on 16 August 2022. From the date of docketing to this present date, 142 days have elapsed. On the date requested, 180 days will have elapsed from the date this case was docketed.

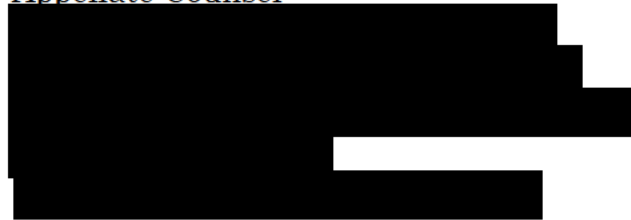
The appellant was sentenced to 120 days total confinement and a bad conduct discharge for one charge and six specifications of violations of Article 112a of the Uniform Code of Military Justice (UCMJ), one additional charge and one specification of a violation of Article 92 of the UCMJ, and one additional charge and one specifications of a violation of Article 112a of the UCMJ. The record of trial consists of 9 prosecution exhibits, 6 defense exhibits, and 3 appellate exhibits; the transcript is 209 pages. Appellant is not currently confined. Undersigned counsel is a reservist

and due to the demands of his civilian job has been unable to complete a review of Appellant's case. Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully Submitted,

//signedASK5Jan23//
ABHISHEK S. KAMBLI
Major, USAFR
Appellate Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via electronic mail to the Court and served on the Appellate Government Division on 5 January 2023.

//signedASK5Jan23//

ABHISHEK S. KAMBLI

Major, USAFR

Appellate Counsel



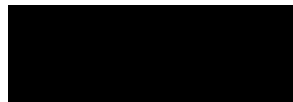
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman (E-2)	)	ACM S32736
MICHAEL T. LAPEDOTA, 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 6 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 S32736
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Michael T. LAPEDOTA)	
Airman (E-2))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 2

On 6 February 2023, Appellant submitted a Motion to Withdraw from Appellate Review and Motion to Attach. Specifically, Appellant moved to attach a DD Form 2330, *Waiver/Withdrawal of Appellate Rights in General and Special Courts-Martial Subject to Review by a Court of Criminal Appeals*, signed by Appellant on 23 January 2023 and Appellant’s counsel on 2 February 2023.

The Government did not submit any opposition.

Accordingly, it is by the court on this 9th day of February, 2023,

ORDERED:

Appellant’s Motion to Withdraw from Appellate Review and Motion to Attach are **GRANTED**. Appellant’s case is forwarded to the Appellate Records Branch (JAJM) for further processing in accordance with Rules for Courts-Martial 1115(f)(3) and 1201, *Manual for Courts-Martial, United States* (2019 ed.).



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS


UNITED STATES	)	MOTION TO WITHDRAW FROM
<i>Appellee</i>	)	APPELLATE REVIEW AND ATTACH
)	
v.	)	Before Panel No. 2
)	
Airman (E-2)	)	No. ACM S32736
MICHAEL T. LAPEDOTA)	
United States Air Force	)	6 February 2023
<i>Appellant</i>)	


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

Pursuant to Rule 16 of the Rules of Practice and Procedure of the United States Air Force Court of Criminal Appeals and Rule for Courts-Martial (R.C.M.) 1115, Appellant moves to withdraw his case from appellate review. Appellant moves to withdraw his prior motion filed on 2 February 2023 due to an error in the form. Appellant has fully consulted with Major Kambli, his appellate defense counsel, regarding this motion to withdraw. No person has compelled, coerced or induced Appellant by force, promises of clemency, or otherwise, to withdraw his case from appellate review. Further, pursuant to Rules 23(b) and 23.3(b), undersigned counsel asks this Court to attach the two-page document appended to this pleading to the record of this proceeding. The appended document is necessary to comply with R.C.M. 1115(d).

WHEREFORE, Appellant respectfully requests this Honorable Court to grant this motion to withdraw from appellate review, and to grant this request to attach matters to the record.

Respectfully submitted,


ABHISHEK S. KAMBLI, 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 were sent via email to the Court and served on the Appellate Government Division on 6 February 2023.

Respectfully submitted,

[REDACTED]

ABHISHEK S. KAMBLI, Maj, USAFR
Appellate Defense Counsel
Air Force Appellate Defense Division

[REDACTED]

WAIVER/WITHDRAWAL OF APPELLATE RIGHTS IN GENERAL AND SPECIAL COURTS-MARTIAL SUBJECT TO REVIEW BY A COURT OF CRIMINAL APPEALS
(For use in courts-martial referred on or after 1 January 2019)

5 July 2022

I have read the attached entry of judgment in my case dated _____.

I have consulted with Major Abhishek S. Kambli, my (associate) defense counsel concerning my appellate rights and I am satisfied with his/her advice.

I understand that:

1. If I do not waive or withdraw appellate review –

- a. My court-martial will be automatically reviewed by the Air Force Court of Criminal Appeals per Article 66(b)(3) or is eligible for direct review by the _____ Court of Criminal Appeals per Article 66(b)(1)(A-B).
- b. The Court of Criminal Appeals will review my case to determine whether the findings and sentence are correct in law and fact and whether the sentence is appropriate.
- c. After review by the Court of Criminal Appeals, my case could be reviewed for legal error by the United States Court of Appeals for the Armed Forces on petition by me or on request of the Judge Advocate General.
- d. If the Court of Appeals for the Armed Forces reviews my case, my case could be reviewed for legal error by the United States Supreme Court on petition by me or the Government.
- e. I have the right to be represented by military counsel, at no cost to me, or by civilian counsel, at no expense to the United States, or both, before the Court of Criminal Appeals, the Court of Appeals for the Armed Forces, and the Supreme Court.

2. If I waive or withdraw appellate review –

- a. My case will not be reviewed by the Court of Criminal Appeals, or be subject to further review by the Court of Appeals for the Armed Forces, or by the Supreme Court under 28 U.S.C. § 1259.
- b. My case will be reviewed by a judge advocate per Article 65(d)(3). Upon completion of that review, I may submit an application for consideration by The Judge Advocate General under Article 69(b), for review limited to the issue of whether this waiver or withdrawal was invalid under the law. See R.C.M. 1201(h)(4)(B).
- c. An Article 69(b) application must be filed within one year after the date of completion of review under Article 65(d)(3), if I can show good cause for filing later the period may be extended up to three years after the completion date.
- d. I may file a waiver of appellate review at any time after entry of judgment.
- e. I may file withdrawal from appellate review any time before such review is completed.
- f. A waiver or withdrawal, once filed, cannot be revoked, and bars further appellate review. A waiver or withdrawal may not be filed in any case where the sentence includes death.

3. Whether or not I waive or withdraw appellate review, I may petition the Judge Advocate General for a new trial under Article 73 on the grounds of newly discovered evidence or fraud on the court at any time within three years after the date of the entry of judgment.

I understand the foregoing, and I (~~waive my rights to appellate review~~) (withdraw my case from appellate review). I make this decision freely and voluntarily. No one has made any promises that I would receive any benefit from this waiver/withdrawal, and no one has forced me to make it.

MICHAEL T. LAPEDOTA

AIRMAN

TYPED NAME OF ACCUSED

RANK OF ACCUSED


SIGNATURE OF ACCUSED

23 JAN 2023
DATE

STATEMENT OF COUNSEL

(Check appropriate block)

- 1. I represented the accused at his/her court-martial
- 2. I am associate counsel detailed under R.C.M. 1115(b). I have communicated with the accused's (detailed) (individual military) (civilian) (appellate) defense counsel concerning the accused's waiver/withdrawal and discussed this communication with the accused.
- 3. I am substitute counsel detailed under R.C.M. 1115(b).
- 4. I am civilian counsel whom the accused consulted concerning this matter. I am a member in good standing of the bar of _____
- 5. I am appellate defense counsel for the accused.

I have advised the accused of his/her appellate rights and of the consequences of waiving or withdrawing appellate review. I was given a reasonable opportunity to examine the record of trial and any attachments in the accused's case before advising the accused. The accused has elected to (~~wave~~) withdraw appellate review.

Abhishek S. Kambli

JAJA

TYPED NAME OF COUNSEL

UNIT OF COUNSEL

MAJOR

RANK OF COUNSEL

BUSINESS ADDRESS (If Civilian Counsel)



2 February 2023

SIGNATURE OF COUNSEL

DATE