

**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 Basic (E-1)	)	Case No. ACM S32703
<b>JOVAN-TYREE S. LILLY</b>	)	
United States Air Force	)	Filed on: 8 September 2021
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(2) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his first enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on 18 **November 2021**. The record of trial was docketed with this Court on 21 July 2021. From the date of docketing to the present date, 50 days have elapsed. On the date requested, 120 days will have elapsed.

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

Respectfully submitted,

[REDACTED]

TODD J. FANNIFF, Lt Col, USAF  
Deputy Chief  
Air Force Appellate Defense Division

[REDACTED]

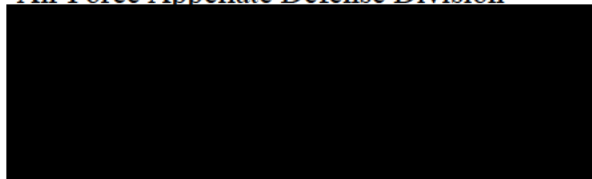
**CERTIFICATE OF FILING AND SERVICE**

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 8 September 2021.

Respectfully submitted,

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TODD J. FANNIFF, Lt Col, USAF  
Deputy Chief  
Air Force Appellate Defense Division

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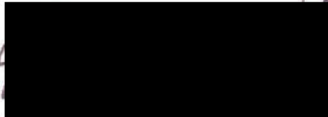

**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman Basic (E-1)	)	ACM S32703
JOVAN-TYREE S. LILLY, 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.

  
MATTHEW J. NEIL, Lt Col, USAF  
Director of Operations, 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 September 2021.



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Director of Operations, 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 (SECOND)</b>
	)	
v.	)	Before Panel No. 1
	)	
Senior Airman (E-4)	)	No. ACM S32703
<b>JOVAN-TYREE S. LILLY</b>	)	
United States Air Force	)	10 November 2021
<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) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his second enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **18 December 2021**. The record of trial was docketed with this Court on 21 July 2021. From the date of docketing to the present date, 112 days have elapsed. On the date requested, 150 days will have elapsed.

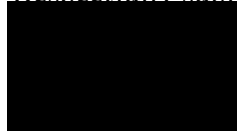
On 10 March 2021, pursuant to his pleas and plea agreement, Appellant was convicted at a special court-martial by a military judge at Aviano Air Base, Italy of one charge, 11 specifications of wrongful use, possession, etc. of controlled substances, in violation of Article 112a Uniform Code of Military Justice (UCMJ); one charge, one specification of drunken or reckless operation of vehicle, in violation of Article 113 UCMJ; one charge, one specification of obstructing justice, in violation of Article 131b UCMJ; and one charge, one specification of dereliction of duty, in violation of Article 92 UCMJ. R. at 116. The judge sentenced appellant to 10 months confinement and a bad conduct discharge. R. at 146.

The record of trial consists of four volumes. The transcript is 147 pages. There are five Prosecution Exhibits, one Defense Exhibit, and two Appellate Exhibits. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters and has not yet started 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 of time.

Respectfully submitted,



LSON, Maj, USAF

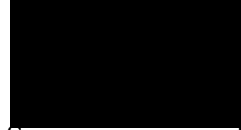
Appellate Defense Counsel  
Appellate Defense Division  
United States Air Force



**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 10 November 2021.

Respectfully submitted,



S [REDACTED] LSON, Maj, USAF  
Appellate Defense Counsel  
Appellate Defense Division  
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 Basic (E-1)	)	ACM S32703
JOVAN-TYREE S. LILLY, 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.



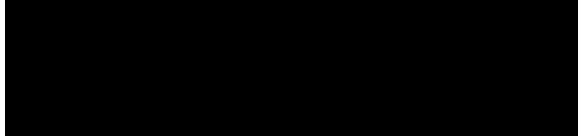
MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force





**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 15 November 2021.



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
	)	
Senior Airman (E-4)	)	No. ACM S32703
<b>JOVAN-TYREE S. LILLY</b>	)	
United States Air Force	)	10 December 2021
<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) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his third enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **17 January 2022**. The record of trial was docketed with this Court on 21 July 2021. From the date of docketing to the present date, 142 days have elapsed. On the date requested, 180 days will have elapsed.

On 10 March 2021, pursuant to his pleas and plea agreement, Appellant was convicted at a special court-martial by a military judge at Aviano Air Base, Italy of one charge, 11 specifications of wrongful use, possession, etc. of controlled substances, in violation of Article 112a Uniform Code of Military Justice (UCMJ); one charge, one specification of drunken or reckless operation of vehicle, in violation of Article 113 UCMJ; one charge, one specification of obstructing justice, in violation of Article 131b UCMJ; and one charge, one specification of dereliction of duty, in violation of Article 92 UCMJ. R. at 116. The judge sentenced appellant to 10 months confinement and a bad conduct discharge. R. at 146.

The record of trial consists of four volumes. The transcript is 147 pages. There are five Prosecution Exhibits, one Defense Exhibit, and two Appellate Exhibits. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been working on other assigned matters and has not yet started 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 of time.

Respectfully submitted,



LSON, Maj, USAF

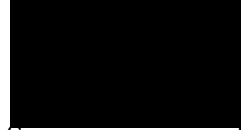
Appellate Defense Counsel  
Appellate Defense Division  
United States Air Force



**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 10 December 2021.

Respectfully submitted,



S [REDACTED] LSON, Maj, USAF  
Appellate Defense Counsel  
Appellate Defense Division  
United States Air Force



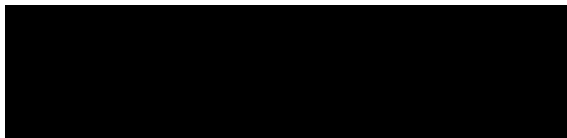
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman Basic (E-1)	)	ACM S32703
JOVAN-TYREE S. LILLY, 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.

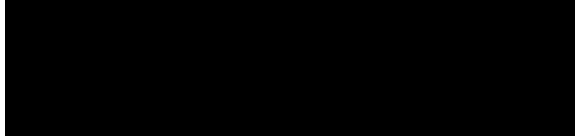


MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



**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 13 December 2021.



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
	)	
Senior Airman (E-4)	)	No. ACM S32703
<b>JOVAN-TYREE S. LILLY</b>	)	
United States Air Force	)	7 January 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 23.3(m)(6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his fourth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **16 February 2022**. The record of trial was docketed with this Court on 21 July 2021. From the date of docketing to the present date, 170 days have elapsed. On the date requested, 210 days will have elapsed.

On 10 March 2021, pursuant to his pleas and plea agreement, Appellant was convicted at a special court-martial by a military judge at Aviano Air Base, Italy of one charge, 11 specifications of wrongful use, possession, etc. of controlled substances, in violation of Article 112a Uniform Code of Military Justice (UCMJ); one charge, one specification of drunken or reckless operation of vehicle, in violation of Article 113 UCMJ; one charge, one specification of obstructing justice, in violation of Article 131b UCMJ; and one charge, one specification of dereliction of duty, in violation of Article 92 UCMJ. R. at 116. The judge sentenced appellant to 10 months confinement and a bad conduct discharge. R. at 146.

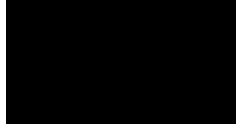
The record of trial consists of four volumes. The transcript is 147 pages. There are five Prosecution Exhibits, one Defense Exhibit, and two Appellate Exhibits. Appellant is not currently confined.

Counsel is currently assigned 19 cases; 14 cases are pending initial AOE's before this Court. Through no fault of Appellant, undersigned counsel has been working on other assigned matters and has not yet started his review of Appellant's case. One case has priority over the present case:

*United States v. Cunningham*, ACM 40093 – Appellant was tried and convicted at a general court-martial by a panel of officer and enlisted members at Ellsworth Air Force Base, South Dakota of one charge and one specification of murder, in violation of Article 118, Uniform Code of Military Justice. Record (R.) at 1252. The record of trial consists of 18 volumes. The transcript is 1,362 pages. There are 36 Prosecution Exhibits, 13 Defense Exhibits, and 97 Appellate Exhibits. Appellant is currently in confinement. Counsel has started reviewing the record of trial.

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

Respectfully submitted,



LSON, Maj, USAF

Appellate Defense Counsel  
Appellate Defense Division  
United States Air Force

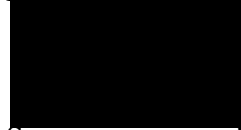




**CERTIFICATE OF FILING AND SERVICE**

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 January 2022.

Respectfully submitted,



S [REDACTED] LSON, Maj, USAF  
Appellate Defense Counsel  
Appellate Defense Division  
United States Air Force



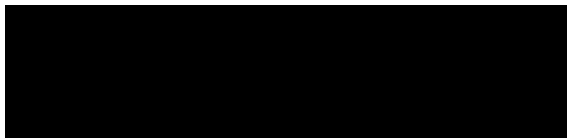
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman Basic (E-1)	)	ACM S32703
JOVAN-TYREE S. LILLY, 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 10 January 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 (FIFTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
Senior Airman (E-4)	)	No. ACM S32703
<b>JOVAN-TYREE S. LILLY</b>	)	
United States Air Force	)	9 February 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 23.3(m)(6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his fifth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **18 March 2022**. The record of trial was docketed with this Court on 21 July 2021. From the date of docketing to the present date, 203 days have elapsed. On the date requested, 240 days will have elapsed.

On 10 March 2021, pursuant to his pleas and plea agreement, Appellant was convicted at a special court-martial by a military judge at Aviano Air Base, Italy of one charge, 11 specifications of wrongful use, possession, etc. of controlled substances, in violation of Article 112a Uniform Code of Military Justice (UCMJ); one charge, one specification of drunken or reckless operation of vehicle, in violation of Article 113 UCMJ; one charge, one specification of obstructing justice, in violation of Article 131b UCMJ; and one charge, one specification of dereliction of duty, in violation of Article 92 UCMJ. R. at 116. The judge sentenced appellant to 10 months confinement and a bad conduct discharge. R. at 146.

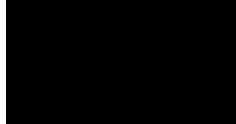
The record of trial consists of four volumes. The transcript is 147 pages. There are five Prosecution Exhibits, one Defense Exhibit, and two Appellate Exhibits. Appellant is not currently confined.

Counsel is currently assigned 20 cases; 14 cases are pending initial AOE's before this Court. Through no fault of Appellant, undersigned counsel has been working on other assigned matters and has not yet started his review of Appellant's case. One case has priority over the present case:

*United States v. Cunningham*, ACM 40093 – Appellant was tried and convicted at a general court-martial by a panel of officer and enlisted members at Ellsworth Air Force Base, South Dakota of one charge and one specification of murder, in violation of Article 118, Uniform Code of Military Justice. Record (R.) at 1252. The record of trial consists of 18 volumes. The transcript is 1,362 pages. There are 36 Prosecution Exhibits, 13 Defense Exhibits, and 97 Appellate Exhibits. Appellant is currently in confinement. Counsel has finished his review of the case file and is drafting the AOE.

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

Respectfully submitted,



LSON, Maj, USAF

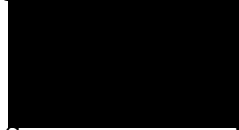
Appellate Defense Counsel  
Appellate Defense Division  
United States Air Force



**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 9 February 2022.

Respectfully submitted,

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S [REDACTED] LSON, Maj, USAF  
Appellate Defense Counsel  
Appellate Defense Division  
United States Air Force

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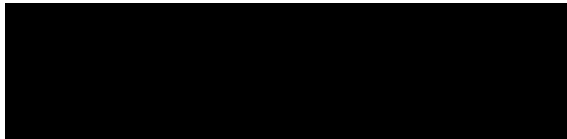
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman Basic (E-1)	)	ACM S32703
JOVAN-TYREE S. LILLY, 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 11 February 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

UNITED STATES,	)	<b>MERITS BRIEF</b>
<i>Appellee,</i>	)	
	)	
v.	)	Before Panel No. 1
	)	
Senior Airman (E-4),	)	No. ACM S32703
<b>JOVAN-TYREE S. LILLY,</b>	)	
United States Air Force,	)	8 March 2022
<i>Appellant.</i>	)	

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

**Submission of Case Without Specific Assignments of Error**

The undersigned appellate defense counsel attests he has, on behalf of Appellant, carefully examined the record of trial in this case. Appellant does not admit the findings and sentence are correct in law and fact, but submits the case to this Honorable Court on its merits with no specific assignments of error.<sup>1</sup>

Respectfully submitted,



ELSON, Maj, USAF

Appellate Defense Counsel  
Appellate Defense Division  
United States Air Force



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<sup>1</sup> Appellant has conformed this merits brief to the format in Appendix B of this Honorable Court’s Rule of Practice and Procedure. Appellant understands this Court will exercise its independent “awesome, plenary, [and] *de novo* power” to review the entire record of this proceeding for factual and legal sufficiency, and for sentence propriety, and to “substitute its judgment” for that of the court below, as is provided for and required by Article 66(d), UCMJ, 10 U.S.C. §866(d) (2019). *United States v. Cole*, 31 M.J. 270, 272 (C.M.A. 1990); *United States v. Chin*, 75 M.J. 220 (C.A.A.F. 2016).

**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 2022.

Respectfully submitted,



S [REDACTED] ELSON, Maj, USAF  
Appellate Defense Counsel  
Appellate Defense Division  
United States Air Force



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

UNITED STATES	)	No. ACM S32703
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Jovan-Tyree S. LILLY	)	
Senior Airman (E-4)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 1</b>

Upon review of the record of trial, the court noted that a DVD disc identified as “Attachment 5 of the 1st Ind to DD Form 458, dtd 17 Dec[ember] [20]20,” was not sealed. Attachment 5 is a disc that contains residual evidence from a charge that was later withdrawn and dismissed with prejudice; the evidence on the disc contains explicit sexual activity that should have been sealed before trial. Out of an abundance of caution, the court will order the above-mentioned disc sealed. Therefore, we order the Government to take the corrective action identified below.

Accordingly, it is by the court on this 11th day of April, 2022,

**ORDERED:**

The Government shall take all steps necessary to ensure the disc identified as “Attachment 5 of the 1st Ind to DD Form 458, dtd 17 Dec[ember] [20]20” in the possession of any Government office, Appellant, counsel for Appellant (trial and appellate), or any other known copy, be retrieved and destroyed if a paper copy, or destroyed if an electronic copy.\*

However, if appellate defense counsel and appellate government counsel possess the disc—Attachment 5 of the 1st Ind to DD Form 458, dtd 17 December 2020—counsel are authorized to retain copies of the disc in their possession until completion of our Article 66, UCMJ, 10 U.S.C. § 866, review of Appellant’s case, to include the period for reconsideration in accordance with JT. CT. CRIM. APP. R. 31. After this period, appellate defense and appellate government counsel shall destroy any retained copies in their possession.

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\* The base legal office may maintain a sealed copy in accordance with Department of the Air Force Manual 51-203, *Records of Trial*, ¶ 9.3.6 (21 Apr. 2021).

The Clerk of Court will ensure Attachment 5 of the 1st Ind to DD Form 458, dtd 17 December 2020, is properly “sealed” in the record retained by the court.



FOR THE COURT



CAROL K. JOYCE  
Clerk of the Court