

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

UNITED STATES	)	No. ACM 40669
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Adrienna A. PAYTON	)	
First Lieutenant (O-2)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Special Panel</b>

This case was docketed with the court on 9 September 2024. On 29 October 2024, counsel for Appellant submitted a Motion for Enlargement of Time (First) requesting an additional 60 days to submit Appellant's assignments of error. The Government opposes the motion.

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

Accordingly, it is by the court on this 4th day of November, 2024,

**ORDERED:**

Appellant's Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error not later than **7 January 2025**.

Any subsequent requests for enlargement will be considered individually on their merits.

Appellant's counsel is advised that any subsequent motions for enlargement of time shall include, in addition to matters required under this court's Rules of Practice and Procedure, statements as to: (1) whether Appellant was advised of Appellant's right to a timely appeal, (2) whether Appellant was provided an update of the status of counsel's progress on Appellant's case, (3) whether Appellant was advised of the request for an enlargement of time, and (4) whether Appellant agrees with the request for an enlargement of time.

Appellant's counsel is further advised that any future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, ordinarily will not be granted absent *exceptional circumstances*.



FOR THE COURT



OLGA STANFORD, Capt, USAF  
Commissioner

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

UNITED STATES,	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (FIRST)</b>
	)	
v.	)	Before Special Panel
	)	
First Lieutenant (O-2)	)	No. ACM 40669
<b>ADRIENNA A. PAYTON,</b>	)	
United States Air Force,	)	29 October 2024
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a first enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **7 January 2025**. The record of trial was docketed with this Court on 9 September 2024. From the date of docketing to the present date, 50 days have elapsed. On the date requested, 120 days will have elapsed.

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

Respectfully submitted,

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770  
Email: frederick.johnson.11@us.af.mil

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 29 October 2024.

Respectfully submitted,

A large black rectangular redaction box covering the signature area.

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
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Email: frederick.johnson.11@us.af.mil

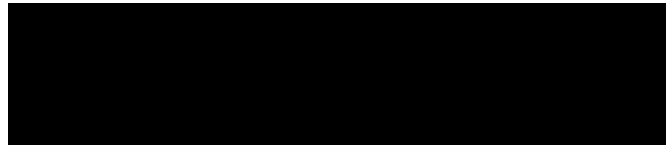
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
First Lieutenant (O-2)	)	ACM 40669
ADRIENNA A. PAYTON, USAF,	)	
<i>Appellant.</i>	)	Special Panel
	)	

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

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

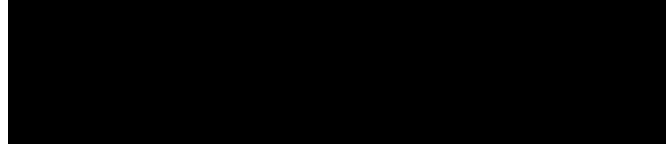
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 31 October 2024.



JENNY A. LIABENOW, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
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**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (SECOND)</b>
	)	
v.	)	Before Panel No. 3
	)	
First Lieutenant (O-2)	)	No. ACM 40669
<b>ADRIENNA A. PAYTON,</b>	)	
United States Air Force,	)	31 December 2024
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a second enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **6 February 2025**. The record of trial was docketed with this Court on 9 September 2024. From the date of docketing to the present date, 113 days have elapsed. On the date requested, 150 days will have elapsed.

On 17 June 2024, a general court-martial consisting of a military judge alone at Tyndall Air Force Base, Florida, found Appellant guilty, consistent with her pleas, of one charge and two specifications of wrongful use of delta-9 tetrahydrocannabinol in violation of Article 112a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 912a. R. at 87, Record of Trial (ROT) Vol. 1, Entry of Judgment, 19 July 2024 (EOJ). The military judge sentenced Appellant a reprimand, forfeiture of \$1,000 per month for two months, and a dismissal. R. at 173. The convening authority took no action on the findings and disapproved the adjudged reprimand. ROT Vol. 1, Convening Authority Decision on Action – *United States v. 1st Lieutenant Adrienna A. Payton*, 9 July 2024.

The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Appellant is not currently confined.

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

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
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Email: frederick.johnson.11@us.af.mil



**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 31 December 2024.

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
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Office: (240) 612-4770  
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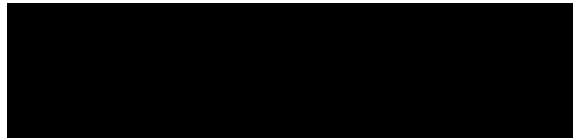
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
First Lieutenant (O-2)	)	ACM 40669
ADRIENNA A. PAYTON, USAF,	)	
<i>Appellant.</i>	)	Panel No. 3
	)	

**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.

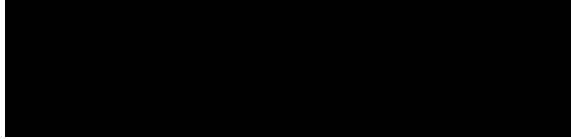
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

**CERTIFICATE OF FILING AND SERVICE**

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



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

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (THIRD)</b>
	)	
v.	)	Before Panel No. 3
	)	
First Lieutenant (O-2)	)	No. ACM 40669
<b>ADRIENNA A. PAYTON,</b>	)	
United States Air Force,	)	28 January 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a third enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **8 March 2025**. The record of trial was docketed with this Court on 9 September 2024. From the date of docketing to the present date, 141 days have elapsed. On the date requested, 180 days will have elapsed.

On 17 June 2024, a general court-martial consisting of a military judge alone at Tyndall Air Force Base, Florida, found Appellant guilty, consistent with her pleas, of one charge and two specifications of wrongful use of delta-9 tetrahydrocannabinol in violation of Article 112a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 912a. R. at 87, Record of Trial (ROT) Vol. 1, Entry of Judgment, 19 July 2024 (EOJ). The military judge sentenced Appellant a reprimand, forfeiture of \$1,000 per month for two months, and a dismissal. R. at 173. The convening authority took no action on the findings and disapproved the adjudged reprimand. ROT Vol. 1, Convening Authority Decision on Action – *United States v. 1st Lieutenant Adrienna A. Payton*, 9 July 2024.

The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Appellant is not currently confined.

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

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
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**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 28 January 2025.

Respectfully submitted,

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

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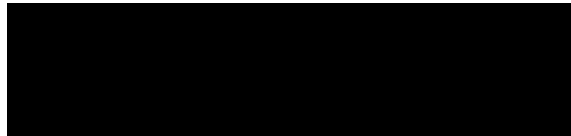
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
First Lieutenant (O-2)	)	ACM 40669
ADRIENNA A. PAYTON, USAF,	)	
<i>Appellant.</i>	)	Panel No. 3
	)	

**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.

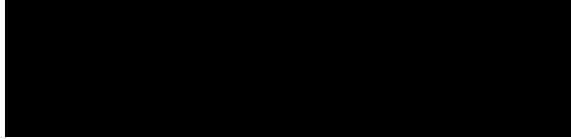
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 29 January 2025.



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



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

UNITED STATES	)	No. ACM 40669
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Adrienna A. PAYTON	)	
First Lieutenant (O-2)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 3</b>

On 31 January 2025, this court granted Appellant an enlargement of time until 8 March 2025 in which to file her assignments of error. On 1 March 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Fourth) “request[ing] an enlargement for a period of 30 days, which will end on **9 April 2025.**” The Government opposes the motion.

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

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

**ORDERED:**

Appellant’s Motion for Enlargement of Time (Fourth) for a period of 30 days is **GRANTED** until **7 April 2025.**



FOR THE COURT



CAROL K. JOYCE  
Clerk of the Court

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (FOURTH)</b>
	)	
v.	)	Before Panel No. 3
	)	
First Lieutenant (O-2)	)	No. ACM 40669
<b>ADRIENNA A. PAYTON,</b>	)	
United States Air Force,	)	1 March 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a fourth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **9 April 2025**.<sup>1</sup> The record of trial was docketed with this Court on 9 September 2024. From the date of docketing to the present date, 173 days have elapsed. On the date requested, 212 days will have elapsed.

On 17 June 2024, a general court-martial consisting of a military judge alone at Tyndall Air Force Base, Florida, found Appellant guilty, consistent with her pleas, of one charge and two specifications of wrongful use of delta-9 tetrahydrocannabinol in violation of Article 112a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 912a. R. at 87, Record of Trial (ROT) Vol. 1, Entry of Judgment, 19 July 2024 (EOJ). The military judge sentenced Appellant a reprimand, forfeiture of \$1,000 per month for two months, and a dismissal. R. at 173. The convening authority took no action on the findings and disapproved the adjudged reprimand. ROT Vol. 1,

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<sup>1</sup> By operation of Rules 18(d)(1) and 15 of the Joint Rules of Appellate Procedure for Courts of Criminal Appeals, Appellant’s brief is currently due on Monday, 10 March 2025.

Convening Authority Decision on Action – *United States v. 1st Lieutenant Adrienna A. Payton*, 9 July 2024.

The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing 35 clients; 20 clients are pending initial AOE's before this Court. Additionally, one client has a pending brief, one other client has an upcoming oral argument, and one additional client has an upcoming petition for a grant of review, all before the United States Court of Appeals for the Armed Forces (CAAF).<sup>2</sup> Thirteen matters currently have priority over this case:

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

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<sup>2</sup> Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a motion to remand in *U.S. v. Burkhardt-Bauder*, ACM 24011; conducted three practice oral arguments and presented oral argument as lead counsel before the CAAF in *U.S. v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 24-0146/AF; prepared and filed a six-page reply brief in *U.S. v. Henderson*, ACM 40419; reviewed approximately 15 percent of the seven-volume record of trial in *U.S. v. Haymond*, ACM 40588; prepared and filed a seven-page reply brief in *U.S. v. York*, ACM 40604; prepared and filed a 13-page reply brief to the CAAF in *U.S. v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF; reviewed the Government's brief and began drafting an answer to the CAAF in *U.S. v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF; and participated in ten practice oral arguments for four additional cases. Additionally, counsel was off for the Washington's Birthday holiday.

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

- 3) *United States v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF – The record of trial is six volumes consisting of six prosecution exhibits, one court exhibit, 12 defense exhibits, and 36 appellate exhibits; the transcript is 396 pages. Undersigned counsel is preparing to present oral argument as lead counsel before the CAAF in this case on 19 March 2025.
- 4) *United States v. Haymond*, ACM 40588 – The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Undersigned counsel has reviewed approximately 20 percent of the record of trial in this case.
- 5) *United States v. Harnar*, ACM 40559 – The record of trial is three volumes consisting of five prosecution exhibits, 14 defense exhibits, six appellate exhibits, and two court exhibits; the transcript is 106 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 6) *United States v. Driskill*, ACM 39889 (rem) – The record of trial is 14 volumes consisting of 14 prosecution exhibits, four defense exhibits, and 169 appellate exhibits; the transcript is 2,062 pages. Undersigned counsel needs to conduct additional review of the record of trial to prepare a brief on remand in this case.
- 7) *United States v. Keilberg*, ACM 40601 – The record of trial is four volumes consisting of 13 prosecution exhibits, one defense exhibit, and seven appellate exhibits; the transcript is 118 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

- 8) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, 16 defense exhibits, and 30 appellate exhibits; the transcript is 985 pages. Undersigned counsel has begun reviewing the record of trial in this case.
- 9) *United States v. Jackson*, ACM S32780 – The record of trial is five volumes consisting of 12 prosecution exhibits, 13 defense exhibits, five appellate exhibits, and one court exhibit; the transcript is 122 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 10) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and 29 appellate exhibits; the transcript is 338 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 11) *United States v. Nelson*, ACM 24042 – The record of trial is three volumes consisting of 15 prosecution exhibits, one defense exhibit, and 17 appellate exhibits; the transcript is 336 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 12) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and 38 appellate exhibits; the transcript is 248 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 13) *United States v. Myslow*, ACM 40668 – The record of trial is three volumes consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 85 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

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

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
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**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 1 March 2025.

Respectfully submitted,

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FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
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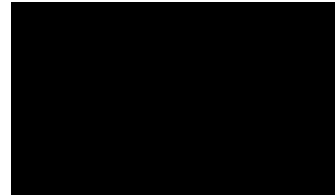
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

<b>UNITED STATES,</b>	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
<b>v.</b>	)	OF TIME
	)	
First Lieutenant (O-2)	)	Before Panel No. 3
<b>ADRIENNA A. PAYTON</b>	)	
United States Air Force,	)	No. ACM 40669
<i>Appellant.</i>	)	
	)	4 March 2025

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

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

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

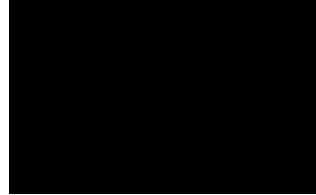


KATE E. LEE, Maj, USAF  
Appellate Government Counsel  
Government Trial & Appellate Operations  
1500 W. Perimeter Road, Suite 1190  
Joint Base Andrews, MD  
DSN: 612-4809



**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 March 2025.



KATE E. LEE, Maj, USAF  
Appellate Government Counsel  
Government Trial & Appellate Operations  
1500 W. Perimeter Road, Suite 1190  
Joint Base Andrews, MD  
DSN: 612-4809

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (FIFTH)</b>
	)	
v.	)	Before Panel No. 3
	)	
First Lieutenant (O-2)	)	No. ACM 40669
<b>ADRIENNA A. PAYTON,</b>	)	
United States Air Force,	)	29 March 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a fifth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **7 May 2025**. The record of trial was docketed with this Court on 9 September 2024. From the date of docketing to the present date, 201 days have elapsed. On the date requested, 240 days will have elapsed.

On 17 June 2024, a general court-martial consisting of a military judge alone at Tyndall Air Force Base, Florida, found Appellant guilty, consistent with her pleas, of one charge and two specifications of wrongful use of delta-9 tetrahydrocannabinol in violation of Article 112a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 912a. R. at 87, Record of Trial (ROT) Vol. 1, Entry of Judgment, 19 July 2024 (EOJ). The military judge sentenced Appellant a reprimand, forfeiture of \$1,000 per month for two months, and a dismissal. R. at 173. The convening authority took no action on the findings and disapproved the adjudged reprimand. ROT Vol. 1, Convening Authority Decision on Action – *United States v. 1st Lieutenant Adrienna A. Payton*, 9 July 2024.

The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-six clients; twenty-one clients are pending initial AOE's before this Court. Additionally, one client has an upcoming oral argument, and one other client has an upcoming supplement to the petition for a grant of review, both before the United States Court of Appeals for the Armed Forces (CAAF).<sup>1</sup> Twelve matters currently have priority over this case:

- 1) *United States v. Cadavona*, ACM 40476 – The record of trial is four volumes consisting of eleven prosecution exhibits, two defense exhibits, and twenty-four appellate exhibits; the transcript is 329 pages. Undersigned counsel has petitioned the CAAF for a grant of review and is drafting the supplement to the petition in this case.
- 2) *United States v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF – The record of trial is eight volumes consisting of twelve prosecution exhibits, eight defense exhibits, two court exhibits, and seventy-five appellate exhibits; the transcript is 987 pages.

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<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately five percent of the seven-volume record of trial in *U.S. v. Haymond*, ACM 40588; prepared and filed a thirteen-page supplemental reply brief, conducted three practice oral arguments, and presented oral argument as lead counsel before the CAAF in *U.S. v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF; prepared and filed a 28-page answer to the CAAF and conducted a practice oral argument in *U.S. v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF; petitioned the CAAF for a grant of review and began drafting the supplement to the petition in *U.S. v. Cadavona*, ACM 40476, USCA Dkt. No. 25-0114/AF; assisted with preparing and filing an eighteen-page reply and an eight-page motion response in *U.S. v. Dawson*, ACM 24041; reviewed approximately forty percent of the three-volume record of trial in *U.S. v. Harnar*, ACM 40559; and participated in a practice oral argument for an additional case. Additionally, counsel attended the CAAF wreath laying ceremony and reception on 25 March 2025.

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

- 3) *United States v. Haymond*, ACM 40588 – The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, forty-two appellate exhibits, and one court exhibit; the transcript is 689 pages. Undersigned counsel has reviewed approximately 20 percent of the record of trial in this case.
- 4) *United States v. Harnar*, ACM 40559 – The record of trial is three volumes consisting of five prosecution exhibits, fourteen defense exhibits, six appellate exhibits, and two court exhibits; the transcript is 106 pages. Undersigned counsel has reviewed approximately forty percent of the record of trial in this case.
- 5) *United States v. Driskill*, ACM 39889 (rem) – The record of trial is fourteen volumes consisting of fourteen prosecution exhibits, four defense exhibits, and 169 appellate exhibits; the transcript is 2,062 pages. Undersigned counsel needs to conduct additional review of the record of trial to prepare a brief on remand in this case.
- 6) *United States v. Keilberg*, ACM 40601 – The record of trial is four volumes consisting of thirteen prosecution exhibits, one defense exhibit, and seven appellate exhibits; the transcript is 118 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 7) *United States v. Jackson*, ACM S32780 – The record of trial is five volumes consisting of twelve prosecution exhibits, thirteen defense exhibits, five appellate exhibits, and one court exhibit; the transcript is 122 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

- 8) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel has begun reviewing the record of trial in this case.
- 9) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 10) *United States v. Nelson*, ACM 24042 – The record of trial is three volumes consisting of fifteen prosecution exhibits, one defense exhibit, and seventeen appellate exhibits; the transcript is 336 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 11) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 12) *United States v. Myslow*, ACM 40668 – The record of trial is three volumes consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is eighty-five pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

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

advised of her right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770  
Email: frederick.johnson.11@us.af.mil

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 29 March 2025.

Respectfully submitted,

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

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770  
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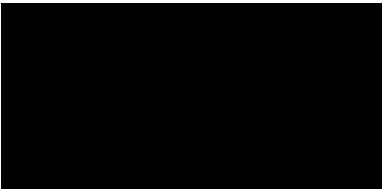
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
First Lieutenant (O-2)	)	Before Panel No. 3
<b>ADRIENNA A. PAYTON,</b>	)	No. ACM 40669
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	31 March 2025

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

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

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



**CERTIFICATE OF FILING AND SERVICE**

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



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

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (SIXTH)</b>
	)	
v.	)	Before Panel No. 3
	)	
First Lieutenant (O-2)	)	No. ACM 40669
<b>ADRIENNA A. PAYTON,</b>	)	
United States Air Force,	)	30 April 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a sixth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **6 June 2025**. The record of trial was docketed with this Court on 9 September 2024. From the date of docketing to the present date, 233 days have elapsed. On the date requested, 270 days will have elapsed.

On 17 June 2024, a general court-martial consisting of a military judge alone at Tyndall Air Force Base, Florida, found Appellant guilty, consistent with her pleas, of one charge and two specifications of wrongful use of delta-9 tetrahydrocannabinol in violation of Article 112a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 912a. R. at 87, Record of Trial (ROT) Vol. 1, Entry of Judgment, 19 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, forfeiture of \$1,000 per month for two months, and a dismissal. R. at 173. The convening authority took no action on the findings and disapproved the adjudged reprimand. ROT Vol. 1, Convening Authority Decision on Action – *United States v. 1st Lieutenant Adrienna A. Payton*, 9 July 2024.

The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-seven clients; twenty-two clients are pending initial AOE's before this Court.<sup>1</sup> Nine matters currently have priority over this case:

- 1) *United States v. Haymond*, ACM 40588 – The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, forty-two appellate exhibits, and one court exhibit; the transcript is 689 pages. Undersigned counsel has reviewed approximately forty percent of the record of trial in this case.
- 2) *United States v. Driskill*, ACM 39889 (rem) – The record of trial is fourteen volumes consisting of fourteen prosecution exhibits, four defense exhibits, and 169 appellate exhibits; the transcript is 2,062 pages. Undersigned counsel needs to conduct additional review of the record of trial to prepare a brief on remand in this case.
- 3) *United States v. Keilberg*, ACM 40601 – The record of trial is four volumes consisting of thirteen prosecution exhibits, one defense exhibit, and seven appellate exhibits; the

---

<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately fifteen percent of the seven-volume record of trial in *U.S. v. Haymond*, ACM 40588; conducted two practice oral arguments and presented oral argument as lead counsel before the United States Court of Appeals for the Armed Forces (CAAF) in *U.S. v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF; prepared and filed a twenty-seven-page supplement to the petition for grant of review to the CAAF in *U.S. v. Cadavona*, ACM 40476, USCA Dkt. No. 25-0114/AF; assisted with preparing and filing two motions in *U.S. v. Dawson*, ACM 24041; completed his review of the three-volume record of trial and prepared and filed a fifteen-page AOE in *U.S. v. Harnar*, ACM 40559; reviewed the two-volume record of trial and prepared and filed a motion to withdraw from appellate review in *U.S. v. Hatfield*, ACM S32791; and participated in three practice oral arguments for an additional case. Additionally, counsel was on leave on 18 and 26–29 April 2025.

transcript is 118 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.


- 4) *United States v. Jackson*, ACM S32780 – The record of trial is five volumes consisting of twelve prosecution exhibits, thirteen defense exhibits, five appellate exhibits, and one court exhibit; the transcript is 122 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 5) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel has begun reviewing the record of trial in this case.
- 6) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 7) *United States v. Nelson*, ACM 24042 – The record of trial is three volumes consisting of fifteen prosecution exhibits, one defense exhibit, and seventeen appellate exhibits; the transcript is 336 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 8) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

9) *United States v. Myslow*, ACM 40668 – The record of trial is three volumes consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is eighty-five pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

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

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770  
Email: frederick.johnson.11@us.af.mil

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 30 April 2025.

Respectfully submitted,

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

FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770  
Email: frederick.johnson.11@us.af.mil

**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
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 3
First Lieutenant (O-2)	)	
<b>ADRIENNA A. PAYTON,</b>	)	No. ACM 40669
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	2 May 2025

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

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



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

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 2 May 2025.



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



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

UNITED STATES	)	No. ACM 40669
<i>Appellee</i>	)	
	)	
v.	)	
	)	NOTICE OF PANEL CHANGE
Adrienna A. PAYTON	)	
First Lieutenant (O-2)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	

It is by the court on this 6th day of May, 2025,

**ORDERED:**

That the Record of Trial in the above-styled matter is withdrawn from Panel 3 and referred to Panel 1 for appellate review.

This panel letter supersedes all previous panel assignments.



FOR THE COURT



OLGA STANFORD, Capt, USAF  
Chief Commissioner

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (SEVENTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
First Lieutenant (O-2)	)	No. ACM 40669
<b>ADRIENNA A. PAYTON,</b>	)	
United States Air Force,	)	28 May 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a seventh enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **6 July 2025**. The record of trial was docketed with this Court on 9 September 2024. From the date of docketing to the present date, 261 days have elapsed. On the date requested, 300 days will have elapsed.

On 17 June 2024, a general court-martial consisting of a military judge alone at Tyndall Air Force Base, Florida, found Appellant guilty, consistent with her pleas, of one charge and two specifications of wrongful use of delta-9 tetrahydrocannabinol in violation of Article 112a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 912a. R. at 87, Record of Trial (ROT) Vol. 1, Entry of Judgment, 19 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, forfeiture of \$1,000 per month for two months, and a dismissal. R. at 173. The convening authority took no action on the findings and disapproved the adjudged reprimand. ROT Vol. 1, Convening Authority Decision on Action – *United States v. 1st Lieutenant Adrienna A. Payton*, 9 July 2024.

The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-nine clients; twenty-three clients are pending initial AOE's before this Court.<sup>1</sup> Additionally, one client has an upcoming petition for a grant of review and supplement to the petition before the United States Court of Appeals for the Armed Forces (CAAF). Seven matters currently have priority over this case:

- 1) *United States v. Keilberg*, ACM 40601 – The record of trial is four volumes consisting of thirteen prosecution exhibits, one defense exhibit, and seven appellate exhibits; the transcript is 118 pages. Undersigned counsel has begun reviewing the record of trial in this case.
- 2) *United States v. York*, ACM 40604 – The record of trial is seven volumes consisting of five prosecution exhibits, two defense exhibits, 36 appellate exhibits, and one court exhibit; the transcript is 847 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.
- 3) *United States v. Jackson*, ACM S32780 – The record of trial is five volumes consisting of twelve prosecution exhibits, thirteen defense exhibits, five appellate exhibits, and

---

<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel completed his review of the seven-volume record of trial and prepared and filed a twelve-page AOE in *U.S. v. Haymond*, ACM 40588; assisted with preparing and filing two motions and a twenty-two page supplement to the petition for a grant of review before the CAAF in *U.S. v. Dawson*, ACM 24041, USCA Dkt. No. 25-0156/AF; completed his review on remand of the fourteen-volume record and prepared and filed a twenty-nine-page brief in *U.S. v. Driskill*, ACM 39889 (rem); prepared and presented a briefing for the Air Force Senior Defense Counsel Qualification Course; and participated in six practice oral arguments for two additional cases. Additionally, counsel was on leave on 2–4 May 2025, was off for the Memorial Day holiday, and attended the funeral service for CMSgt Swigonski at Arlington National Cemetery on 28 May 2025.

one court exhibit; the transcript is 122 pages. Undersigned counsel has not yet begun reviewing the record of trial, but additional counsel has been detailed to this case.

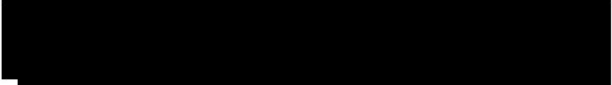
- 4) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel has begun reviewing the record of trial in this case.
- 5) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 6) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 7) *United States v. Myslow*, ACM 40668 – The record of trial is three volumes consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is eighty-five pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of her right to a timely appeal, was provided an update of the status of counsel's progress

on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,




FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
Office: (240) 612-4770  
Email: frederick.johnson.11@us.af.mil

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 28 May 2025.

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
1500 West Perimeter Road, Suite 1100  
Joint Base Andrews NAF, MD 20762-6604  
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**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 1
First Lieutenant (O-2)	)	
<b>ADRIENNA A. PAYTON,</b>	)	No. ACM 40669
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	30 May 2025

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 300 days in length. Appellant’s 10 month 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.

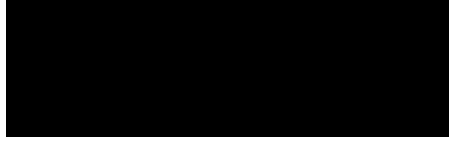


VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4800



**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 30 May 2025.



VANESSA BAIROS, Maj, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4800

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (EIGHTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
First Lieutenant (O-2)	)	No. ACM 40669
<b>ADRIENNA A. PAYTON,</b>	)	
United States Air Force,	)	29 June 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an eighth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **5 August 2025**. The record of trial was docketed with this Court on 9 September 2024. From the date of docketing to the present date, 293 days have elapsed. On the date requested, 330 days will have elapsed.

On 17 June 2024, a general court-martial consisting of a military judge alone at Tyndall Air Force Base, Florida, found Appellant guilty, consistent with her pleas, of one charge and two specifications of wrongful use of delta-9 tetrahydrocannabinol in violation of Article 112a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 912a. R. at 87, Record of Trial (ROT) Vol. 1, Entry of Judgment, 19 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, forfeiture of \$1,000 per month for two months, and a dismissal. R. at 173. The convening authority took no action on the findings and disapproved the adjudged reprimand. ROT Vol. 1, Convening Authority Decision on Action – *United States v. 1st Lieutenant Adrienna A. Payton*, 9 July 2024.

The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing forty-two clients; twenty-five clients are pending initial AOE's before this Court.<sup>1</sup> Additionally, one client has an upcoming supplement to the petition for grant of review and another client has an answer brief, both before the United States Court of Appeals for the Armed Forces (CAAF). Nine matters currently have priority over this case:

- 1) *United States v. Haymond*, ACM 40588 – The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Undersigned counsel is drafting a reply brief in this case.
- 2) *United States v. Driskill*, ACM 39889 (rem) – The record of trial is 14 volumes consisting of 14 prosecution exhibits, four defense exhibits, and 169 appellate exhibits; the transcript is 2,062 pages. Undersigned counsel is drafting a reply brief in this case.
- 3) *United States v. Keilberg*, ACM 40601 – The record of trial is four volumes consisting of thirteen prosecution exhibits, one defense exhibit, and seven appellate exhibits; the transcript is 118 pages. Undersigned counsel has reviewed the record of trial and begun drafting the AOE in this case.

---

<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel completed his review of the four-volume record of trial and began drafting the AOE in *U.S. v. Keilberg*, ACM 40601; petitioned the CAAF for a grant of review and began drafting the supplement to the petition in *U.S. v. York*, ACM 40604, USCA Dkt. No. 25-0200/AF; reviewed the Government's answer and began drafting a reply brief in *U.S. v. Haymond*, ACM 40588; and reviewed the Government's answer and began drafting a reply brief in *U.S. v. Driskill*, ACM 39889 (rem). Additionally, counsel was off for the Juneteenth holiday.

- 4) *United States v. York*, ACM 40604 – The record of trial is seven volumes consisting of five prosecution exhibits, two defense exhibits, 36 appellate exhibits, and one court exhibit; the transcript is 847 pages. Undersigned counsel has petitioned the CAAF for a grant of review and is drafting the supplement to the petition in this case.
- 5) *United States v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF – The record of trial is eight volumes consisting of 11 prosecution exhibits, nine defense exhibits, one court exhibit, and 71 appellate exhibits; the transcript is 703 pages. Undersigned counsel is reviewing the Government’s Brief in Support of the Certified Issue and preparing to draft an answer brief to the CAAF in this case.
- 6) *United States v. Jackson*, ACM S32780 – The record of trial is five volumes consisting of twelve prosecution exhibits, thirteen defense exhibits, five appellate exhibits, and one court exhibit; the transcript is 122 pages. Undersigned counsel has begun reviewing the record of trial, and additional counsel has been detailed to this case.
- 7) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel has begun reviewing the record of trial in this case.
- 8) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Undersigned counsel has begun reviewing the record of trial, and additional counsel has been detailed to this case.
- 9) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight

appellate exhibits; the transcript is 248 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

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

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF  
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**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 29 June 2025.

Respectfully submitted,

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

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

<b>UNITED STATES,</b>	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
First Lieutenant (O-2)	)	Before Panel No. 1
<b>ADRIENNA A. PAYTON,</b>	)	No. ACM 40669
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	1 July 2025

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 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. 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.

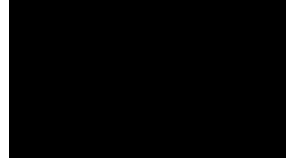


KATE E. LEE, Maj, USAF  
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**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 1 July 2025.



KATE E. LEE, Maj, USAF  
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Government Trial & Appellate Operations  
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**UNITED STATES AIR FORCE  
COURT OF CRIMINAL APPEALS**

UNITED STATES	)	No. ACM 40669
<i>Appellee</i>	)	
	)	
v.	)	
	)	NOTICE OF PANEL CHANGE
Adrienna A. PAYTON	)	
First Lieutenant (O-2)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	

It is by the court on this 4th day of August, 2025,

**ORDERED:**

That the Record of Trial in the above-styled matter is withdrawn from Panel 1 and referred to Panel 3 for appellate review.

This panel letter supersedes all previous panel assignments.



FOR THE COURT



AGNIESZKA M. GAERTNER, Capt, USAF  
Commissioner

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (NINTH)</b>
	)	
v.	)	Before Panel No. 1
	)	
First Lieutenant (O-2)	)	No. ACM 40669
<b>ADRIENNA A. PAYTON,</b>	)	
United States Air Force,	)	27 July 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a ninth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **4 September 2025**. The record of trial was docketed with this Court on 9 September 2024. From the date of docketing to the present date, 321 days have elapsed. On the date requested, 360 days will have elapsed.

On 17 June 2024, a general court-martial consisting of a military judge alone at Tyndall Air Force Base, Florida, found Appellant guilty, consistent with her pleas, of one charge and two specifications of wrongful use of delta-9 tetrahydrocannabinol in violation of Article 112a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 912a. R. at 87, Record of Trial (ROT) Vol. 1, Entry of Judgment, 19 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, forfeiture of \$1,000 per month for two months, and a dismissal. R. at 173. The convening authority took no action on the findings and disapproved the adjudged reprimand. ROT Vol. 1, Convening Authority Decision on Action – *United States v. 1st Lieutenant Adrienna A. Payton*, 9 July 2024.

The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-five clients; twenty-one clients are pending initial AOE's before this Court.<sup>1</sup> Four matters currently have priority over this case:

- 1) *United States v. Jackson*, ACM S32780 – The record of trial is five volumes consisting of twelve prosecution exhibits, thirteen defense exhibits, five appellate exhibits, and one court exhibit; the transcript is 122 pages. Additional counsel has been detailed to this case, and counsel have drafted an AOE.
- 2) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Undersigned counsel has begun reviewing the record of trial, and additional counsel has been detailed to this case.
- 3) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel has begun reviewing the record of trial in this case.

---


<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a seven-page AOE in *U.S. v. Keilberg*, ACM 40601; prepared and filed a sixteen-page supplement to the petition for grant of review to the United States Court of Appeals for the Armed Forces (CAAF) in *U.S. v. York*, ACM 40604, USCA Dkt. No. 25-0200/AF; prepared and filed a two-page reply brief in *U.S. v. Haymond*, ACM 40588; prepared and filed an eight-page reply brief in *U.S. v. Driskill*, ACM 39889 (rem); prepared and filed a motion to withdraw from appellate review in *U.S. v. Harnar*, ACM 40559 (f rev); and prepared and filed an eleven-page answer brief to the CAAF in *U.S. v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF. Additionally, counsel was off for the Independence Day holiday and was on leave on 17–20 July 2025.

- 4) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

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

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

Respectfully submitted,




FREDERICK J. JOHNSON, Maj, USAF  
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**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 27 July 2025.

Respectfully submitted,



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

<b>UNITED STATES,</b>	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 1
First Lieutenant (O-2)	)	
<b>ADRIENNA A. PAYTON,</b>	)	No. ACM 40669
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	28 July 2025

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 360 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 6 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not completed review of the record of trial at this late stage of the appellate process

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

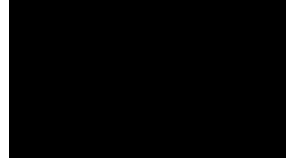


KATE E. LEE, Maj, USAF  
Appellate Government Counsel  
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**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 28 July 2025.



KATE E. LEE, Maj, USAF  
Appellate Government Counsel  
Government Trial & Appellate Operations  
1500 W. Perimeter Road, Suite 1190  
Joint Base Andrews, MD  
DSN: 612-4804

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

UNITED STATES,	)	<b>APPELLANT’S MOTION FOR LEAVE</b>
<i>Appellee,</i>	)	<b>TO FILE MOTION FOR REMAND</b>
	)	<b>AND MOTION FOR REMAND</b>
	)	
v.	)	Before Panel No. 3
	)	
First Lieutenant (O-2)	)	No. ACM 40669
<b>ADRIENNA A. PAYTON,</b>	)	
United States Air Force,	)	19 August 2025
<i>Appellant.</i>	)	

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

Pursuant to Rules 23(d) and 23.3 of this Court’s Rules of Practice and Procedure, Appellant, First Lieutenant (1st Lt) Adrienna A. Payton, moves for leave to file a motion for remand. Pursuant to the same rules, the motion for leave to file the pleading and the pleading are combined herein. Appellant requests this Court remand the record of trial to correct the erroneous notations on the entry of judgment and statement of trial results regarding when prejudice attaches to dismissal of Charge I and its Specification.

**Facts**

On 17 June 2024, a general court-martial consisting of a military judge alone at Tyndall Air Force Base, Florida, found Appellant guilty, consistent with her pleas, of one charge and two specifications of wrongful use of delta-9 tetrahydrocannabinol in violation of Article 112a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 912a. R. at 87; Entry of Judgment, July 19, 2024 (EOJ). The military judge sentenced Appellant to a reprimand, forfeiture of \$1,000 per month for two months, and a dismissal. R. at 173. The convening authority took no action on the findings and disapproved the adjudged reprimand. Convening Authority Decision on Action – *United States v. 1st Lieutenant Adrienna A. Payton*, July 9, 2024.

Appellant entered into a plea agreement with the convening authority before pleading guilty. App. Ex. II. As part of this agreement, the parties agreed that the trial counsel would move to dismiss Charge I and its Specification after the military judge accepted Appellant's guilty pleas as provident. *Id.* at 2. Although this dismissal would initially be without prejudice, the plea agreement specified that it "will ripen into prejudice upon completion of appellate review." *Id.* The parties and the military judge discussed this term of the plea agreement on the record and agreed on its meaning. R. at 80–81. After the military judge announced the sentence, the Government moved to withdraw and dismiss Charge I and its Specification. R. at 175. The military judge granted this motion and directed the trial counsel to make that change on the original charge sheet. *Id.* The EOJ states that Appellant pleaded not guilty to Charge I and its Specification, and the findings column for both Charge I and its Specification states, "Withdrawn and Dismissed without prejudice." EOJ at 1. Likewise, the Statement of Trial Results (STR) dated 30 June 2024 lists the disposition of Charge I and its Specification as "Withdrawn and Dismissed without prejudice."

### **Law and Analysis**

The EOJ and STR erroneously state when prejudice attaches to the dismissal of Charge I and its Specification. Under the terms of the plea agreement, prejudice will attach on completion of appellate review. App. Ex. II at 2. Stating that the dismissal of Charge I and its Specification is simply "without prejudice" is an error. EOJ at 1. This is a consequential error because it affects the potential for Appellant to face future jeopardy for the misconduct alleged in the Specification of Charge I. *Cf. United States v. Graves*, No. ACM 40340, 2023 CCA LEXIS 356, at \*7–8 (A.F. Ct. Crim. App. Aug. 23, 2023) (explaining prejudice arising from incorrect notation of not guilty findings on EOJ). Since the current EOJ and STR notations indicate that

Appellant could be prosecuted in the future for this misconduct, the error prejudices Appellant by denying the benefit for which she bargained in the plea agreement. *Id.*; App. Ex. II at 2. Further, this error has the potential to affect Appellant’s decisions about how to proceed with her appeal because, under the terms of the plea agreement, completion of appellate review is what triggers the protection from future prosecution. App. Ex. II at 2.

This Court can remand the record of trial to a military judge to correct errors in the EOJ and the STR. Rule for Courts-Martial (R.C.M.) 1111(c)(3) (describing modification of the EOJ); R.C.M. 1101(e)(3) (describing modification of the STR). A remand will allow all parties to examine the corrected EOJ and STR and ensure they correctly reflect the terms of the plea agreement before the record is returned to this Court. R.C.M. 1112(d)(2). While this Court can also correct the EOJ and STR itself, remanding a case for EOJ corrections “has been [the Court’s] past practice.” *United States v. Steinert*, No. ACM 39857, 2021 CCA LEXIS 401, at \*8–9 (A.F. Ct. Crim. App. Aug. 10, 2021); *but see United States v. Mejia*, No. ACM 40497, 2025 CCA LEXIS 18, at \*10–11 (A.F. Ct. Crim. App. Jan. 16, 2025) (correcting a typographical oversight in the EOJ). This Court has especially used remands to correct substantive errors in the disposition of offenses on the EOJ that affect the attachment of prejudice or former-jeopardy protection. *Graves*, 2023 CCA LEXIS 356, at \*7–9 (declining to modify EOJ or order a hearing and remanding case solely to correct errors in the disposition of offenses on the EOJ); *Steinert*, 2021 CCA LEXIS 401, at \*8–9 (remanding case to, *inter alia*, correct omission of “with prejudice” language in the EOJ); *United States v. Huff*, No. ACM 39845, 2021 CCA LEXIS 168, at \*9–10 (A.F. Ct. Crim. App. Apr. 8, 2021) (remanding case to, *inter alia*, correct omission of “with prejudice” language in the EOJ). Indeed, this Court has previously remanded a record to correct the very same error at issue here—indicating dismissals were without prejudice when

the plea agreement stated that prejudice will attach upon completion of appellate review—in another case. *United States v. Harnar*, No. ACM 40559, 2024 CCA LEXIS 39, at \*2–3 (A.F. Ct. Crim. App. Jan. 31, 2024) (order). The Court should do the same here and remand this case to correct the EOJ and STR to indicate that prejudice will attach to the dismissal of Charge I and its Specification upon completion of appellate review.

Remanding the record of trial now serves the interest of judicial economy by correcting the record before Appellant raises assignments of error. If the corrections are completed, this issue should be resolved, and Appellant will be able to decide how to proceed on appeal with the benefit of an accurate record of trial. On the other hand, if the corrections cannot be made for any reason, Appellant will have the opportunity to address the appropriate relief in her assignments of error. *See* R.C.M. 1112(d)(3) (describing potential remedies for defective records).

**WHEREFORE**, Appellant respectfully requests that this Court grant this motion for leave to file a motion for remand and remand Appellant’s record of trial to the Chief Trial Judge, Air Force Trial Judiciary, for correction of the EOJ and STR.

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF  
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**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 19 August 2025.

Respectfully submitted,

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

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

<b>UNITED STATES,</b>	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 3
First Lieutenant (O-2)	)	
<b>ADRIENNA A. PAYTON,</b>	)	No. ACM 40669
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	26 August 2025

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

Pursuant to Rule 23(c) of this Court’s Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant’s Motion to Remand.

Remanding Appellant’s case for correction of erroneous notations on the Entry of Judgement (EOJ) and Statement of Trial Results (STR) regarding when prejudice attaches to dismissal of Charge I and its Specification is inappropriate because such corrections to the EOJ and STR can be corrected by this Court without a remand and a remand will only serve to take unnecessary additional time.

***Law and Analysis***

Correcting the EOJ and STR for this singular modification is within the power of this Court and is the most effective solution for judicial economy. Appellant cites to several cases supporting remand, however none of the cases cited by Appellant were remanded for the sole purpose of a singular correction to the EOJ or STR. Rather, each case involved the need for remand for several issues. Here, the only correction at issue is the same corrective language to be applied to the STR and EOJ to clarify when prejudice attaches.

In Steinert, this Court remanded the record of trial to the convening authority to take action on the sentence, which the convening authority had neglected to do, in addition to ordering corrections to the STR and EOJ. United States v. Steinert, No. ACM 39857, 2021 CCA LEXIS 401 at \*9. Similarly in Harnar, the case was remanded to address missing exhibits, re-serve victim matters and allow the appellant a reasonable amount of time to respond, and to correct errors in the convening authority action on sentence, in addition to updating the language in the EOJ and STR regarding when prejudice attached. United States v. Harnar, No. ACM 40559, 2024 CCA LEXIS 39, at \*2–3 (A.F. Ct. Crim. App. Jan. 31, 2024).

More broadly in Huff, this Court did not remand the case merely to correct language regarding prejudice in the EOJ, but concluded that remand for other issues would likely result in corrections to the EOJ and potentially render the issue moot. United States v. Huff, No. ACM 39845, 2021 CCA LEXIS 168, at \*10 (A.F. Ct. Crim. App. Apr. 8, 2021).

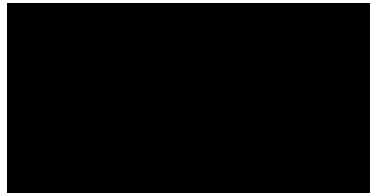
This case is also distinguishable from Graves, where the corrections needed to the EOJ and STR were more substantial than in this instance because the EOJ and STR did not accurately reflect the proper language of a Charge and Specification for which the appellant had pled guilty. Graves, 2023 CCA LEXIS 356 at \*7-9. This required a more nuanced approach, and this Court ordered the military judge to send proposed changes to the parties and allow reasonable opportunity to respond before enacting any changes. *Id.*

In contrast, this singular issue is akin to the situation in Mejia, where the minor changes to the EOJ were acted upon by this Court to correct language in a reprimand and the date of reduction in rank following deferment. United States v. Mejia, No. ACM 40497, 2025 CCA LEXIS 18, at \*10–11, \*18 (A.F. Ct. Crim. App. Jan. 16, 2025).

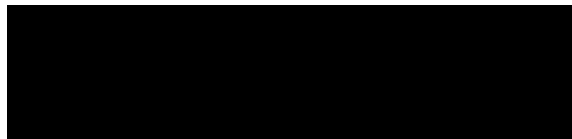


From the discussion on the record, the parties and the military judge discussed the terms of the plea agreement, including when prejudice would attach to the dismissal of Charge I and its Specification. (R. at 80-81.) All parties were clear on the meaning of the ripening prejudice and were in mutual agreement. (Id.) Because of the clear agreement in the record and because this singular correction that applies both to the STR and EOJ can be accomplished by this Court, remanding the case for correction is not consistent with judicial economy.

WHEREFORE, the United States respectfully requests that this Court exercise its authority under Rule for Courts-Martial 1111(c)(2) and correct the EOJ and STR to clarify when prejudice attaches consistent with the plea agreement in this case.



CATHERINE D. MUMFORD, Capt, USAF  
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MARY ELLEN PAYNE  
Associate Chief  
Government Trial and  
Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force  
(240) 612-4800

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force  
Appellate Defense Division on 26 August 2025.



CATHERINE D. MUMFORD, Capt, USAF  
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Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
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**UNITED STATES AIR FORCE  
COURT OF CRIMINAL APPEALS**

<b>UNITED STATES</b>	)	<b>No. ACM 40669</b>
<i>Appellee</i>	)	
	)	
<b>v.</b>	)	
	)	<b>ORDER</b>
<b>Adrienna A. PAYTON</b>	)	
<b>First Lieutenant (O-2)</b>	)	
<b>U.S. Air Force</b>	)	
<i>Appellant</i>	)	<b>Panel 3</b>

On 19 August 2025, Appellant, through counsel, submitted a Motion for Leave to File Motion for Remand and Motion for Remand, requesting this court remand the record of trial for correction. Specifically, Appellant seeks a remand of the record to correct the entry of judgment and Statement of Trial Results to indicate that prejudice will attach to the dismissal of Charge I and its specification upon completion of appellate review, as required by the plea agreement. The Government opposed the motion, arguing the record can be corrected without a remand and that a remand would cause unnecessary delay.\*

The court has considered Appellant’s motions, the Government’s opposition, case law, the Rules for Courts-Martial, and this court’s Rules of Practice and Procedure.

Accordingly, it is by the court on this 28th day of August, 2025,

**ORDERED:**

Appellant’s Motion for Leave to File Motion for Remand is **GRANTED**.

Appellant’s Motion for Remand is **DENIED**.



FOR THE COURT



CAROL K. JOYCE  
Clerk of the Court

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\* We note the Government incorrectly titles its motion as “United States’ Opposition to Appellant’s Motion for Enlargement of Time.”

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

UNITED STATES	)	No. ACM 40669
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Adrienna A. PAYTON	)	
First Lieutenant (O-2)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 3</b>

On 28 August 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Tenth) requesting an additional 30 days to submit Appellant’s assignments of error. The Government opposes the motion.

On 4 November 2024, the court issued an order in this case that stated, “[A]ny future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, ordinarily will not be granted absent *exceptional circumstances*.” If Appellant’s current request for a tenth enlargement of time were granted, Appellant’s brief would be due 390 days after docketing. Appellant’s defense counsel provides that the exceptional circumstance in this case is from a pending motion for reconsideration, and suggestion for consideration en banc, to remand the record of trial to correct errors in the entry of judgment and Statement of Trial Results. This explanation does not satisfy the court’s order for *exceptional circumstances*.

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 4th day of September, 2025,

**ORDERED:**

Appellant’s Motion for Enlargement of Time (Tenth) is **GRANTED IN PART**. Appellant shall file any assignments of error not later than **11 September 2025**.



FOR THE COURT



CAROL K. JOYCE  
Clerk of the Court

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>ENLARGEMENT OF TIME (TENTH)</b>
	)	
v.	)	Before Panel No. 3
	)	
First Lieutenant (O-2)	)	No. ACM 40669
<b>ADRIENNA A. PAYTON,</b>	)	
United States Air Force,	)	28 August 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a tenth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **4 October 2025**. The record of trial was docketed with this Court on 9 September 2024. From the date of docketing to the present date, 353 days have elapsed. On the date requested, 390 days will have elapsed.

On 17 June 2024, a general court-martial consisting of a military judge alone at Tyndall Air Force Base, Florida, found Appellant guilty, consistent with her pleas, of one charge and two specifications of wrongful use of delta-9 tetrahydrocannabinol in violation of Article 112a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 912a. R. at 87, Record of Trial (ROT) Vol. 1, Entry of Judgment, July 19, 2024 (EOJ). The military judge sentenced Appellant to a reprimand, forfeiture of \$1,000 per month for two months, and a dismissal. R. at 173. The convening authority took no action on the findings and disapproved the adjudged reprimand. ROT Vol. 1, Convening Authority Decision on Action – *United States v. 1st Lieutenant Adrienna A. Payton*, July 9, 2024.

The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Appellant is not currently confined. Undersigned counsel has reviewed the record of trial in this case.

Counsel is currently representing thirty-three clients; fifteen clients are pending initial AOE's before this Court.<sup>1</sup> Additionally, one client has an upcoming petition for grant of review and supplement to the petition before the United States Court of Appeals for the Armed Forces (CAAF). Five additional clients have upcoming petitions for a writ of certiorari before the Supreme Court of the United States. Two matters currently have priority over this case:

- 1) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Additional counsel has been detailed to this case and is drafting the AOE.
- 2) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has begun reviewing the record of trial in this case.

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<sup>1</sup> Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a six-page motion for summary disposition to the CAAF in *U.S. v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF; prepared and filed a nine-page answer to the Government's petition for reconsideration before the CAAF in *U.S. v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF; completed his review of the seven-volume record of trial and prepared and filed a 24-page AOE in *U.S. v. Banks*, ACM 24057; prepared and filed a six-page reply in *U.S. v. Keilberg*, ACM 40601; reviewed the five-volume record of trial and prepared and filed a four-page motion for leave to file motion for remand and motion for remand and a six-page motion for reconsideration and suggestion for consideration *en banc* in this case; and began reviewing the record of trial in *U.S. v. Simmons*, ACM 40658. Additionally, counsel was on leave on 1–5 and 22–25 August 2025.

This Court previously issued an order in this case stating, “[A]ny future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, ordinarily will not be granted absent *exceptional circumstances*.” Order, Nov. 4, 2024. Since this motion for enlargement of time, if granted, would expire 390 days after docketing, exceptional circumstances must be shown in accordance with this Court’s order. Here, exceptional circumstances arise from the pending motion for reconsideration and suggestion for consideration *en banc*. Appellant previously moved for remand of the record of trial to correct errors in the EOJ and Statement of Trial Results (STR). Appellant’s Mot. for Leave to File Mot. for Remand and Mot. for Remand, Aug. 19, 2025. This Court denied the motion for remand on 28 August 2025. Order, Aug. 28, 2025. That same day, Appellant moved the Court to reconsider its denial of the motion and suggested consideration *en banc*. Appellant’s Mot. for Reconsideration and Suggestion for *En Banc* Consideration, Aug. 28, 2025. That motion is currently pending before the Court.

Additional time is needed to reach a resolution of this interlocutory matter. Following Appellant’s motion for reconsideration, the Government has seven days to file a reply. A.F. CT. CRIM. APP. R. 31(c). The Court must then decide whether to grant the motion and whether to consider the matter *en banc*. If the Court grants the motion for reconsideration and remands the record, then this motion for an enlargement of time would become moot. On the other hand, if the Court denies the motion for reconsideration, then Appellant will need additional time to determine how to proceed in consideration of that denial. Either way, additional time is necessary so that Appellant can proceed in accordance with the outcome of the pending motion. These circumstances warrant an additional enlargement of time.

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

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF  
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Air Force Appellate Defense Division  
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**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 28 August 2025.

Respectfully submitted,



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

<b>UNITED STATES,</b>	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 3
First Lieutenant (O-2)	)	
<b>ADRIENNA A. PAYTON,</b>	)	No. ACM 40669
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	2 September 2025

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 390 days in length. Appellant’s over a year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 5 months combined for the United States and this Court to perform their separate statutory responsibilities. This Court has stated that “requests for enlargements of time that, if granted, would expire more than 360 days after docketing, ordinarily will not be granted absent *exceptional circumstances.*” (*Order*, 4 November 2025). Appellant

has not demonstrated any such circumstances—that there is a pending motion for reconsideration is not exceptional,

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



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Appellate Government Counsel  
Government Trial & Appellate Operations  
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Joint Base Andrews, MD  
DSN: 612-4804

**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 September 2025.



KATE E. LEE, Maj, USAF  
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**UNITED STATES AIR FORCE  
COURT OF CRIMINAL APPEALS**

UNITED STATES	)	No. ACM 40669
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Adrienna A. PAYTON	)	
First Lieutenant (O-2)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 3</b>

On 28 August 2025, in a Motion for Reconsideration and Suggestion for *En Banc* Consideration, counsel for Appellant moved this court to reconsider its interlocutory order of 28 August 2025 which denied Appellant’s motion for remand of Appellant’s case. On 4 September 2025, the Government opposed the motion.

In accordance with Rule 27(c) of The Joint Rules of Appellate Procedure for Courts of Criminal Appeals, Appellant’s motion was transmitted to each judge of the court who was present for duty and not disqualified from participation due to a conflict of interest. No participating judge voted to consider the 28 August 2025 order *en banc*. Further, the panel voted 3–0 against reconsideration.

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 September, 2025,  
**ORDERED:**

Appellant’s Motion for Reconsideration and Suggestion for *En Banc* Consideration is **DENIED**.



FOR THE COURT



CAROL K. JOYCE  
Clerk of the Court

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

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee,</i>	)	<b>RECONSIDERATION AND</b>
	)	<b>SUGGESTION FOR <i>EN BANC</i></b>
	)	<b>CONSIDERATION</b>
v.	)	
	)	Before Panel No. 3
First Lieutenant (O-2)	)	
<b>ADRIENNA A. PAYTON,</b>	)	No. ACM 40669
United States Air Force,	)	
<i>Appellant.</i>	)	28 August 2025

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

Pursuant to Rules 31.1 and 31.3 of this Court’s Rules of Practice and Procedure, Appellant, First Lieutenant (1st Lt) Adrienna A. Payton, moves this Court to reconsider the interlocutory order denying her motion for remand and suggests that the Court conduct such consideration *en banc*. Order, Aug. 28, 2025. The United States Court of Appeals for the Armed Forces (CAAF) has not obtained jurisdiction of this case because no petition or certificate has been filed at the CAAF. A.F. CT. CRIM. APP. R. 31.1. Nor has any other court acquired jurisdiction over the case. Appellant requests this Court reconsider its denial of her motion and remand the record of trial to correct the erroneous notations on the entry of judgment and statement of trial results regarding when prejudice attaches to the dismissal of Charge I and its Specification.

**Facts**

On 17 June 2024, a general court-martial consisting of a military judge alone at Tyndall Air Force Base, Florida, found Appellant guilty, consistent with her pleas, of one charge and two specifications of wrongful use of delta-9 tetrahydrocannabinol in violation of Article 112a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 912a. R. at 87; Entry of Judgment, July 19, 2024 (EOJ). The military judge sentenced Appellant to a reprimand, forfeiture of \$1,000 per

month for two months, and a dismissal. R. at 173. The convening authority took no action on the findings and disapproved the adjudged reprimand. Convening Authority Decision on Action – *United States v. 1st Lieutenant Adrienna A. Payton*, July 9, 2024.

Appellant entered into a plea agreement with the convening authority before pleading guilty. App. Ex. II. As part of this agreement, the parties agreed that the trial counsel would move to dismiss Charge I and its Specification after the military judge accepted Appellant’s guilty pleas as provident. *Id.* at 2. Although this dismissal would initially be without prejudice, the plea agreement specified that it “will ripen into prejudice upon completion of appellate review.” *Id.* The parties and the military judge discussed this term of the plea agreement on the record and agreed on its meaning. R. at 80–81. After the military judge announced the sentence, the Government moved to withdraw and dismiss Charge I and its Specification. R. at 175. The military judge granted this motion and directed the trial counsel to make that change on the original charge sheet. *Id.* The EOJ states that Appellant pleaded not guilty to Charge I and its Specification, and the findings column for both Charge I and its Specification states, “Withdrawn and Dismissed without prejudice.” EOJ at 1. Likewise, the Statement of Trial Results (STR) dated 30 June 2024 lists the disposition of Charge I and its Specification as “Withdrawn and Dismissed without prejudice.”

To correct the discrepancies between her plea agreement and the notations on the EOJ and STR, Appellant moved for leave to file a motion for remand and for remand on 19 August 2025. Appellant’s Mot. for Leave to File Mot. for Remand and Mot. for Remand, Aug. 19, 2025. The Government opposed Appellant’s motion for remand, arguing that the Court should accomplish the corrections itself under Rule for Courts-Martial (R.C.M.) 1111(c)(2). United States’ Opp’n to

Appellant's Mot. for Enlargement of Time, Aug. 26, 2025 (Gov. Opp'n).<sup>1</sup> This Court granted Appellant's motion for leave to file motion for remand but denied the motion for remand. Order, Aug. 28, 2025.

### **Law and Analysis**

The Government does not contest the existence of erroneous notations in the EOJ and STR regarding when prejudice attaches to the dismissal of Charge I and its Specification. Gov. Opp'n. Nor does it contend that correcting this error is unnecessary. *Id.* Rather, the Government's only argument is that remand is unnecessary because the Court can correct the errors itself. *Id.* The Court's order denying Appellant's motion provides no reasoning for the denial. Order, Aug. 28, 2025. The Government's argument for denial goes against this Court's decisions in previous cases and overlooks the benefits of remanding the case instead of correcting the errors on appeal.

This case is most similar to *United States v. Graves*, in which this Court ordered a remand solely to correct errors on the EOJ and "ensure it accurately reflects the specifications, pleas, and findings or other disposition of the offenses." No. ACM 40340, 2023 CCA LEXIS 356, at \*7–9 (A.F. Ct. Crim. App. Aug. 23, 2023). While the errors in *Graves* may have been slightly more numerous, they were not "more substantial," contrary to the Government's claim. Gov. Opp'n at 2. By incorrectly characterizing the attachment of prejudice to the dismissed charge and specification, the errors on Appellant's EOJ and STR increase the possibility that Appellant might unjustly face future jeopardy for this misconduct despite the contrary term in her plea agreement. These errors therefore prejudice Appellant and are just as substantial as the errors noted in *Graves*. 2023 CCA LEXIS 356, at \*7–9. Indeed, they are similar in character, as both

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<sup>1</sup> As this Court noted in its order, the Government incorrectly titled its opposition as an opposition to a motion for enlargement of time. Order, Aug. 28, 2025 at 1 n.\*.



involve errors in the ultimate disposition of offenses. *Id.* In *Graves*, this Court explicitly rejected the possibility of modifying the contents of the EOJ under R.C.M. 1111(c)(2), “determin[ing] the better approach is to allow a military judge under R.C.M. 1111(c)(3) to ensure the EoJ” accurately reflects the disposition of offenses. *Id.* at \*9. Denying Appellant’s motion for remand is inconsistent with the Court’s determination in *Graves* and warrants reconsideration and review by the entire Court to ensure consistent remedies across the Court’s panels for substantial errors in the EOJ.

The nature of the errors also distinguishes this case from the one that the Government contends is most analogous. *See* Gov. Opp’n at 2 (citing *United States v. Mejia*, No. ACM 40497, 2025 CCA LEXIS 18, at \*10–11, \*18 (A.F. Ct. Crim. App. Jan. 16, 2025)). Unlike the errors here that affect Appellant’s protections from future prosecution, the error in *Mejia* was a “typographical oversight” in the date the deferment of the reduction in grade began. 2025 CCA LEXIS 18, at \*11. The errors here are more than typographical oversights; they incorrectly state that the withdrawal and dismissal of Charge I and its Specification are without prejudice when prejudice will attach upon completion of appellate review. Because these errors are more substantial, they warrant remand to ensure they are properly corrected.

Remanding the record to correct these errors will provide several advantages. It will allow both parties to review the proposed corrections to ensure they are accurate before the record is returned to the Court, decreasing the possibility of insufficient corrections. R.C.M. 1112(d)(2). Likewise, it will allow this Court to review the corrections upon redocketing to ensure they were accomplished appropriately. While this Court can modify an EOJ in the performance of its duties, R.C.M. 1111(c)(2), it is unlikely to perform the ministerial task of actually editing the documents in the record of trial. *See Mejia*, 2025 CCA LEXIS 18, at \*18 (describing

modifications to the EOJ in the decretal paragraph of the Court’s opinion). The Court would have no opportunity to verify that the record is corrected in accordance with its opinion, and if it is not, Appellant’s only recourse would be to request record correction under an extra-judicial process such as applying to the Board for Correction of Military Records or as described in the Privacy Act of 1974. 5 U.S.C. § 552a(d)(2)–(3). Utilizing a process—remand—that allows both parties and the Court to ensure proper corrections in the first instance is ultimately more efficient than the alternative possibilities.

As this Court has previously determined in another case, a remand to allow a military judge to correct substantial errors in the EOJ and STR is the “better approach” here. *Graves*, 2023 CCA LEXIS 356, at \*9. Putting this matter before a military judge on remand has the added benefit of highlighting these errors, and the necessary corrections, for others in the system in which this Court has previously found post-trial processing errors to be occurring “at an alarming frequency” that amounts to “a systemic problem indicating institutional neglect.” *United States v. Valentin-Andino*, No. ACM 40185 (f rev), 2024 CCA LEXIS 223, at \*17 (A.F. Ct. Crim. App. June 7, 2024). Having the errors corrected at the level at which they were made will contribute to addressing this systemic problem. In light of the benefits of remanding the record for correction and this Court’s history of doing so under similar circumstances, the entire Court should reconsider the summary denial of Appellant’s motion and order remand to correct her record of trial.

**WHEREFORE**, Appellant respectfully requests that this Court grant this motion for reconsideration, reconsider Appellant’s motion for remand *en banc*, and remand Appellant’s record of trial to correct errors in the EOJ and STR.

Respectfully submitted,

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**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 28 August 2025.

Respectfully submitted,



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

<b>UNITED STATES,</b> <i>Appellee,</i>	)	UNITED STATES' OPPOSITION TO APPELLANT'S MOTION FOR RECONSIDERATION AND SUGGESTION FOR <i>EN BANC</i> CONSIDERATION
	)	
	)	
	)	
	)	
v.	)	Before Panel No. 3
	)	
First Lieutenant (O-2)	)	No. ACM 40669
<b>ADRIENNA A. PAYTON</b>	)	
United States Air Force	)	4 September 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 31 of this Honorable Court's Rules of Practice and Procedure, the United States opposes Appellant's Motion for Reconsideration and suggestion for *en banc* consideration, dated 28 August 2025.

***Standard for Reconsideration***

Under Rule 31.2(b) of this Honorable Court's Rules of Practice and Procedure, reconsideration will ordinarily only be granted if: (1) a material legal or factual matter was overlooked or misapplied; (2) a change in the law occurred after the case was submitted and was overlooked or misapplied by the Court; (3) the decision conflicts with a decision of the Supreme Court of the United States, the Court of Appeals of for Armed Forces (CAAF), another service court of criminal appeals, or this Court; or (4) new information is received that raises a substantial issue as to mental responsibility of the accused at the time of the offense or the accused's mental capacity to stand trial.

### *Law and Analysis*

Appellant requests reconsideration of this Court's order granting Appellant's motion for leave to file motion for remand and denying the motion for remand. Appellant's Mot. For Reconsideration and Suggestion for *En Banc* Consideration, Aug. 28, 2025. (App. Mot.) at 1. This Court considered case law, the Rules for Courts-Martial, and this court's Rules of Practice and Procedure in analyzing the facts and arguments brought forth by both Appellant's motion and Government's opposition in making its decision. Order, Aug. 28, 2025.

Appellant's ground for reconsideration is that (1) this matter is more analogous to United States v. Graves, No. ACM 40340, 2023 CCA LEXIS 356 (A.F. Ct. Crim. App. Aug. 23, 2023) and distinguishable from United States v. Mejia, No. ACM 40497, 2025 CCA LEXIS 18 (A.F. Ct. Crim. App. Jan. 16, 2025); and (2) a remand would ensure proper corrections are accomplished and highlight the errors for future correction. (App. Mot. At 3-5). These same arguments were raised in Appellant's initial motion for remand and were previously considered by this Court. Appellant's Mot. For Leave to File Mot. For Remand and Mot. For Remand, Aug. 19, 2025.

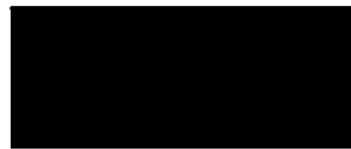
Appellant has not established that a material legal or factual matter was overlooked or misapplied; that a change in the law occurred after the case was submitted and was overlooked or misapplied by the Court; or that new information is received that raises a substantial issue as to mental responsibility of the accused at the time of the offense or the accused's mental capacity to stand trial. The only potential basis for reconsideration raised by Appellant in its motion is that the decision conflicts with the decision of this court in Graves. However, Appellant does not contend or establish that there is any actual conflict with this Court's previous decision in Graves, but rather that Appellant's case is *more similar* to Graves than to

Mejia. (App. Mot. at 3-5) (emphasis added). Both Graves and Mejia were considered by this Court, one resulting in remand and one denying remand based on the facts and errors in each case respectively. Graves, 2023 CCA LEXIS 356 at \*9; Mejia, 2025 CCA LEXIS 18 at \*18. Graves and Mejia do not conflict with each other and do not conflict with Appellant's case. There being no conflict, Appellant has failed to demonstrate a basis for reconsideration under Rule 31.2(b) of this Honorable Court's Rules of Practice and Procedure.

Should this Court decide to grant Appellant's motion for reconsideration and order the case remanded for correction—rather than more expeditiously correcting the singular error itself—Appellant should not be heard to complain in the future about the delay in post-trial processing caused by the remand.

### **CONCLUSION**

Appellant has failed to demonstrate a basis for reconsideration; therefore, the United States respectfully requests that this Court deny Appellant's motion.



CATHERINE D. MUMFORD, Capt, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
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MARY ELLEN PAYNE  
Associate Chief  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
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## **CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and the Air Force  
Appellate Defense Division on 4 September 2025.



CATHERINE D. MUMFORD, Capt, USAF  
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**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

<b>UNITED STATES,</b>	)	<b>APPELLANT’S MOTION TO</b>
<i>Appellee,</i>	)	<b>WITHDRAW FROM APPELLATE</b>
	)	<b>REVIEW AND MOTION TO ATTACH</b>
	)	<b>A DOCUMENT</b>
v.	)	
	)	Before Panel No. 3
First Lieutenant (O-2)	)	
<b>ADRIENNA A. PAYTON,</b>	)	No. ACM 40669
United States Air Force,	)	
<i>Appellant.</i>	)	10 September 2025

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

Pursuant to Rule 16 of this Court’s Rules of Practice and Procedure and Rule for Courts-Martial (R.C.M.) 1115, Appellant, First Lieutenant Adrienna A. Payton, hereby moves to withdraw her case from appellate review. Appellant has fully consulted with Major Frederick Johnson, her 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 her case from appellate review.

Further, pursuant to Rules 23(b) and 23.3(b) of this Honorable Court’s Rules of Practice and Procedure, Appellant asks this Court to attach the six-page document appended to this pleading to Appellant’s Record of Trial. The document is Appellant’s completed Department of Defense Form 2330, *Waiver/Withdrawal of Appellate Rights in General and Special Courts-Martial Subject to Review by a Court of Criminal Appeals*, to include the entry of judgment referenced in the top line of the form, and is therefore necessary to comply with R.C.M. 1115(d) and Rule 16.1 of this Court’s Rules of Practice and Procedure.

**WHEREFORE**, this Court should grant this motion to withdraw from appellate review and attach the requested document to the record.

Respectfully submitted,




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Counsel for Appellant

**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 10 September 2025.

Respectfully submitted,



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