

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

*Appellee,*

*v.*

Staff Sergeant (E-5)

**JESSE R. REYNOLDS,**

United States Air Force,

*Appellant.*

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

Before Panel No. 2

Case No. ACM 40308

Filed on: 31 August 2022

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

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for a first enlargement of time to file an Assignment of Errors. Appellant requests an enlargement for a period of 60 days, which will end on 17 November 2022. The record was docketed with this Court on 20 July 2022. On the date requested, 120 days will have elapsed from the date this case was docketed.

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

Respectfully Submitted,

/

ABHISHEK S. KAMBLI

Major, USAFR

Appellate Counsel

Air Force Appellate Defense Division

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via electronic mail to the Court and served on the Appellate Government Division on 31 August 2022.

//

ABHISHEK S. KAMBLI

Major, USAFR

Appellate Counsel

Air Force Appellate Defense Division

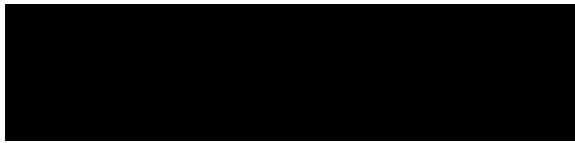
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Staff Sergeant (E-5)	)	ACM 40308
JESSE R. REYNOLDS, USAF,	)	
<i>Appellant.</i>	)	Panel No. 2
	)	

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

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

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

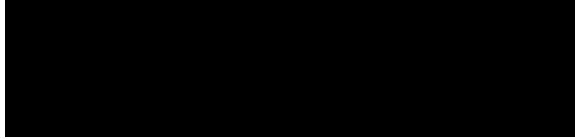


MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force  
Appellate Defense Division on 1 September 2022.



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



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

**UNITED STATES**

*Appellee,*

*v.*

Staff Sergeant (E-5)

**JESSE R. REYNOLDS,**

United States Air Force,

*Appellant.*

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

Before Panel No. 2

Case No. ACM 40308

Filed on: 6 November 2022

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

Pursuant to Rule 23.3(m)(3) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for a second enlargement of time to file an Assignment of Errors. Appellant requests an enlargement for a period of 30 days, which will end on 17 December 2022. The record was docketed with this Court on 20 July 2022. From the date of docketing to this present date, 109 days have elapsed. On the date requested, 150 days will have elapsed from the date this case was docketed.

The appellant was sentenced to 5 years confinement and a dishonorable discharge for one charge and two specifications of violations of Article 120 of the Uniform Code of Military Justice (UCMJ), one charge and one specification of a violation of Article 120b, UCMJ, one charge and two specifications of violations of Article 128, UCMJ, one charge and one specification of a violation of Article 131b, UCMJ, and one additional charge and six specifications of violations of Article 128 of the UCMJ. The record of trial consists of 3 prosecution exhibits, 16 defense exhibits,

9 appellate exhibits, and 3 court exhibits; the transcript is 152 pages. Appellant is currently confined. Undersigned counsel is a reservist and due to the demands of his civilian job has been unable to complete a review of Appellant's case. Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully Submitted,

// [REDACTED]  
ABHISHEK S. KAMBLI  
Major, USAFR  
Appellate Counsel  
Air Force Appellate Defense Division

[REDACTED]

**CERTIFICATE OF FILING AND SERVICE**

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

// [REDACTED]  
ABHISHEK S. KAMBLI  
Major, USAFR  
Appellate Counsel  
Air Force Appellate Defense Division

[REDACTED]

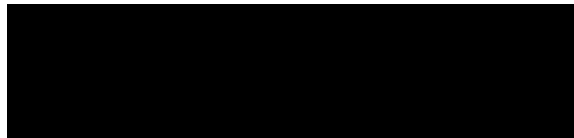
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Staff Sergeant (E-5)	)	ACM 40308
JESSE R. REYNOLDS, USAF,	)	
<i>Appellant.</i>	)	Panel No. 2
	)	

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

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

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



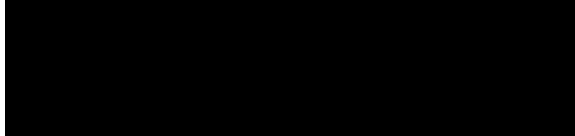
MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force





**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 8 November 2022.



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



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

**UNITED STATES**

*Appellee,*

*v.*

Staff Sergeant (E-5)

**JESSE R. REYNOLDS,**

United States Air Force,

*Appellant.*

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

Before Panel No. 2

Case No. ACM 40308

Filed on: 6 December 2022

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for a third enlargement of time to file an Assignment of Errors. Appellant requests an enlargement for a period of 30 days, which will end on 16 January 2022. The record was docketed with this Court on 20 July 2022. From the date of docketing to this present date, 139 days have elapsed. On the date requested, 180 days will have elapsed from the date this case was docketed.

The appellant was sentenced to 5 years confinement and a dishonorable discharge for one charge and two specifications of violations of Article 120 of the Uniform Code of Military Justice (UCMJ), one charge and one specification of a violation of Article 120b, UCMJ, one charge and two specifications of violations of Article 128, UCMJ, one charge and one specification of a violation of Article 131b, UCMJ, and one additional charge and six specifications of violations of Article 128 of the UCMJ. The record of trial consists of 3 prosecution exhibits, 16 defense exhibits,

9 appellate exhibits, and 3 court exhibits; the transcript is 152 pages. Appellant is currently confined. Undersigned counsel is a reservist and due to the demands of his civilian job has been unable to complete a review of Appellant's case. Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully Submitted,

// [REDACTED]  
ABHISHEK S. KAMBLI  
Major, USAFR  
Appellate Counsel  
Air Force Appellate Defense Division

[REDACTED]

**CERTIFICATE OF FILING AND SERVICE**

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

// [REDACTED]  
ABHISHEK S. KAMBLI  
Major, USAFR  
Appellate Counsel  
Air Force Appellate Defense Division

[REDACTED]

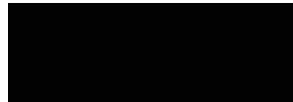
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Staff Sergeant (E-5)	)	ACM 40308
JESSE R. REYNOLDS, USAF,	)	
<i>Appellant.</i>	)	Panel No. 2
	)	

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

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

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



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



**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 7 December 2022.



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



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

UNITED STATES	)	No. ACM 40308
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Jesse R. REYNOLDS	)	
Staff Sergeant (E-5)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 2</b>

On 6 December 2022, counsel for Appellant submitted a Motion for Enlargement of Time (Third), requesting “an enlargement for a period of 30 days, which will end on 16 January 2022.” Additionally, Appellant states that “[o]n the date requested, 180 days will have elapsed from the date this case was docketed.” The Government opposes the motion.

This court previously granted Appellant’s Motion for Enlargement of Time (Second) on 9 November 2022, which set the deadline for Appellant’s brief to 17 December 2022. This court understands Appellant to be requesting 30 additional days from the current due date, which would set a new deadline of 16 January 2023 and not “16 January 2022.”

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

**ORDERED:**

Appellant’s Motion for Enlargement of Time (Third) is **GRANTED**. Appellant’s brief will be due **16 January 2023**.



FOR THE COURT



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

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

**UNITED STATES**

*Appellee,*

*v.*

Staff Sergeant (E-5)

**JESSE R. REYNOLDS,**

United States Air Force,

*Appellant.*

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

Before Panel No. 2

Case No. ACM 40308

Filed on: 6 January 2023

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for a fourth enlargement of time to file an Assignment of Errors. Appellant requests an enlargement for a period of 30 days, which will end on 15 February 2023. The record of trial was received by this division on 20 July 2022. From the date of docketing to this present date, 170 days have elapsed. On the date requested, 210 days will have elapsed from the date this case was received by the division.

The appellant was sentenced to 5 years confinement and a dishonorable discharge for one charge and two specifications of violations of Article 120 of the Uniform Code of Military Justice (UCMJ), one charge and one specification of a violation of Article 120b, UCMJ, one charge and two specifications of violations of Article 128, UCMJ, one charge and one specification of a violation of Article 131b, UCMJ, and one additional charge and six specifications of violations of Article 128 of the UCMJ. The record of trial consists of 3 prosecution exhibits, 16 defense exhibits,



9 appellate exhibits, and 3 court exhibits; the transcript is 152 pages. Appellant is currently confined. Through no fault of Appellant, undersigned counsel has been working on other assigned matters and has so far completed the initial review of the appellant's ROT. Undersigned counsel is a reservist that works a full-time civilian job as an Assistant United States Attorney in the Southern District of Indiana. Counsel is currently assigned approximately 30 cases as a federal prosecutor and has 5 other cases that are pending initial AOE's before this Court. None of the other pending civilian matters take priority over this case but one AOE does.

1. *United States v. Esemoto*, ACM 40273. The record of trial consists of 3 prosecution exhibits, no defense exhibits, and 4 appellate exhibits; the transcript is 95 pages long. Undersigned counsel has conducted a thorough review of the ROT and is actively working on the brief.

Accordingly, an enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully Submitted,

// [REDACTED]  
ABHISHEK S. KAMBLI  
Major, USAFR  
Appellate Counsel  
Air Force Appellate Defense Division

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via electronic mail to the Court and served on the Appellate Government Division on 6 January 2023.

// [REDACTED]  
ABHISHEK S. KAMBLI  
Major, USAFR  
Appellate Counsel  
Air Force Appellate Defense Division

[REDACTED]

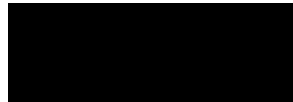
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Staff Sergeant (E-5)	)	ACM 40308
JESSE R. REYNOLDS, USAF,	)	
<i>Appellant.</i>	)	Panel No. 2
	)	

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

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

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

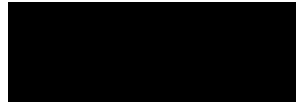


OLIVIA B. HOFF, Capt, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force



**CERTIFICATE OF FILING AND SERVICE**

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



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



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

<b>UNITED STATES</b>	)	<b>MERITS BRIEF</b>
<i>Appellee,</i>	)	
	)	Before Panel No. 2
<i>v.</i>	)	
	)	No. ACM 40308
Staff Sergeant (E-5)	)	
<b>JESSE R. REYNOLDS</b>	)	15 February 2023
United States Air Force,	)	
<i>Appellant</i>	)	

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

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

Undersigned appellate defense counsel attests he has, on behalf of SSgt Reynolds, carefully examined the record of trial in this case. Neither undersigned counsel nor SSgt Reynolds concede that the findings and sentence are correct in law and fact, but submit this case to the Honorable Court on its merits with no attorney raised assignments of error. Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), Appellant raises one issue for this Honorable Court's consideration.

Respectfully Submitted,

[REDACTED]



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

[REDACTED]

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via electronic mail to the Court and served on the Appellate Government Division on 15 February 2023.

Respectfully submitted,

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


## APPENDIX A

Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), Appellant, through appellate defense counsel, personally requests that this Court consider the following matter:

**WHETHER SSGT REYNOLDS' SENTENCE OF FIVE YEARS CONFINEMENT AND A DISHONORABLE DISCHARGE IS INAPPROPRIATELY SEVERE?**

## **Statement of the Case**

On 15 March 2022, Staff Sergeant (SSgt) Jesse R. Reynolds was tried by a military judge sitting as a general court-martial at Shaw Air Force Base, South Carolina. Record of Trial (ROT) Vol. Entry of Judgment. In accordance with his pleas, the military judge found him guilty of one charge and two specifications of violations of Article 120 of the Uniform Code of Military Justice (UCMJ); one charge and one specification of a violation of Article 120b, UCMJ; two charges and six specifications of violations of Article 128, UCMJ; and one charge and one specification of a violation of Article 131b, UCMJ. R. at 113. The military judge sentenced SSgt Reynolds to five years total confinement, total forfeiture of all pay and allowances, a reduction to E-1, and a dishonorable discharge (DD). R. at 151. The Convening Authority took no action on the findings or sentence. Record of Trial (ROT) Vol. 1, Convening Authority Action.

## **Statement of Facts**

SSgt Reynolds grew up in a humble background in Georgia; from a young age made, he made it his mission to serve in the United States Air Force. Def. Ex. B. He enjoyed early success as he promoted to Senior Airman below the zone and made Staff Sergeant in just over four years. Def. Ex. K and Pros. Ex. 2. After he arrived at Shaw AFB, however, he encountered many difficulties. Def. Ex. B. This included being separated from his wife, a motorcycle accident that left him with internal bleeding, and the death of his mother. *Id.* SSgt Reynolds turned to alcohol around the time that he committed the charged offenses. *Id.*



The offenses SSgt Reynolds pled guilty to fell into three categories: (1) unwanted sexual contact with three women he was in consensual relationships with, (2) an incident where SSgt Reynolds made a lewd comment to a 15-year-old girl and engaged in mutual combat with another individual that resulted in him accidentally striking someone else, and (3) telling a witness to limit what she told OSI. Pros. Ex. 1. However, he accepted responsibility for his actions by pleading guilty. R. at 26. The government presented three exhibits: (1) a stipulation of fact, (2) a personal data sheet, and (3) SSgt Reynolds' EPRs. Pros. Ex. 1-3. There was no disciplinary history to present. During SSgt Reynolds' case, trial defense counsel presented numerous accolades along with a written and verbal unsworn statement. Def. Ex. A-P. Three of the victims presented victim impact statements. Ct. Ex. A-C. The government asked for six years total confinement and a dishonorable discharge. R. at 134. Defense counsel did not ask for a specific sentence. R. at 144. The military judge sentenced SSgt Reynolds to five years total confinement, total forfeitures, reduction to E-1, and a dishonorable discharge. R. at 151.

**SSGT REYNOLD'S SENTENCE WAS INAPPROPRIATELY SEVERE.**

*Standard of Review*

This Court reviews sentence appropriateness *de novo* pursuant to its Article 66, UCMJ authority. *United States v. Lane*, 64 M.J. 1, 2 (C.A.A.F. 2006).

*Law*

“Congress has vested responsibility for determining sentence appropriateness in the Courts of Criminal Appeals. The power to review a case for sentence

appropriateness, which reflects the unique history and attributes of the military justice system, includes but is not limited to considerations of uniformity and evenhandedness of sentencing decisions.” *United States v. Durant*, 55 M.J. 258, 260 (C.A.A.F. 2001) (internal citations omitted). As the Court of Appeals for the Armed Forces has made clear, “Article 66(c)’s sentence appropriateness provision is a sweeping Congressional mandate to ensure a fair and just punishment for every accused.” *United States v. Baier*, 60 M.J. 382, 384 (C.A.A.F. 2005) (citations and internal quotations omitted). This provision “requires that the members of [the Courts of Criminal Appeals] independently determine, in every case within [their] limited Article 66, U.C.M.J., jurisdiction, the sentence appropriateness of each case [they] affirm.” *Id.* at 384-85 (alterations in original) (citations and internal quotations omitted).

In determining sentence appropriateness, this Court considers “the particular appellant, the nature and seriousness of the offenses, the appellant’s record of service, and all matters contained in the record of trial.” *United States v. Anderson*, 67 M.J. 703, 705 (A.F. Ct. Crim. App. 2009). Further, Courts of Criminal Appeals have the discretion to consider and compare other court-martial sentences when that court is reviewing a case for sentence appropriateness and relative uniformity. *See United States v. Wach*, 55 M.J. 266, 268 (C.A.A.F. 2001).

#### *Analysis*

SSgt Reynold’s sentence to five years of confinement, total forfeitures, a reduction to E-1, and a dishonorable discharge is inappropriately severe when

considering the nature and seriousness of the offenses, his personal characteristics, and his record of service. *See Anderson*, 67 M.J. at 705.

Starting with the nature and seriousness of the offense, the offenses fall into three categories: (1) unwanted sexual contact with three women he was in consensual relationships with, (2) an incident where SSgt Reynolds made a lewd comment to a 15-year-old girl and engaged in mutual combat with another individual that resulted in him accidentally striking someone else, and (3) telling a witness to limit what she told OSI. Pros. Ex. 1.

Context is key. First, SSgt Reynolds separated from his wife within a year of arriving at Shaw AFB. Def. Ex. B. Second, four months after that, he got into a motorcycle accident that caused internal bleeding to his brain, liver, kidneys, and spleen. *Id.* Finally, after experiencing all that, he found out that his mother died of a heart attack. *Id.* Unfortunately, SSgt Reynolds turned to alcohol to deal with his issues. *Id.* This provides context for the convicted offenses.

The severe sentence also fails to consider SSgt Reynold's personal characteristics. SSgt Reynolds has more to his life than the charged offenses. He came from humble beginnings as a child of divorced parents in Georgia. *Id.* Although his family placed importance on academics, SSgt Reynolds knew he wanted to join the military and made that his primary focus. *Id.* The summer after his senior year, he made that goal a reality by joining the Air Force. *Id.* Although his personal life was full of struggle, he always prioritized being a father to his son and married another woman who he raises his child with. *Id.* He also took his recovery process seriously by completing ADAPT and staying away from alcohol. *Id.*

SSgt Reynolds' military record outside the charged offenses was impeccable. He did not have a single piece of disciplinary action against him throughout his 8-year career. He even got picked up for Senior Airman below the zone and made Staff Sergeant in just over four years. Def. Ex. K. and Pros. Ex. 2. Given this record of achievement, the charged offenses were an aberration in an otherwise impressive service record.

Given the whole context of the nature and seriousness of the offense, the record of trial, and SSgt Reynolds' personal characteristics and record of service, his sentence was unduly severe. *Anderson*, 67 M.J. at 705. His conduct does not require five years of confinement. A sentence of three years confinement (the low end of confinement authorized by the plea agreement) is a more appropriate sentence. SSgt Reynolds was ready to be a productive member of society from the date he was sentenced, and it was unnecessary to give him such a lengthy period of confinement. That type of sentenced combined with a dishonorable discharge properly accounts for the seriousness of the offenses without being inappropriately severe.

**WHEREFORE**, SSgt Reynolds respectfully requests that this Honorable Court lower the confinement portion of his sentence to three years.

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

UNITED STATES,	)	
<i>Appellee,</i>	)	UNITED STATES' ANSWER TO
	)	ASSIGNMENTS OF ERROR
v.	)	
	)	
Staff Sergeant (E-5)	)	Before Panel No. 2
<b>JESSE R. REYNOLDS, USAF</b>	)	
<i>Appellant.</i>	)	No. ACM 40308

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

**ISSUE PRESENTED**

**I.**

**WHETHER [APPELLANT]'S SENTENCE OF FIVE YEARS  
CONFINEMENT AND A DISHONORABLE DISCHARGE IS  
INAPPROPRIATELY SEVERE<sup>1</sup>?**

**STATEMENT OF THE CASE**

The United States generally accepts Appellant's statement of the case.

**STATEMENT OF FACTS**

*Overview*

Appellant was originally charged with 21 specifications. (ROT, Vol. 1, *Entry of Judgment*, dated 15 March 2022). Pursuant to a plea agreement, Appellant pleaded guilty to twelve specifications of abusive sexual contact, aggravated assault, and assault consummated by a battery, against five adult victims. (Id.) Appellant also pleaded guilty to sexual abuse of a sixth child victim and obstruction of justice. (Id.)

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<sup>1</sup> Appellant raises this assignment of error personally pursuant to United States v. Grostefon, 12 M.J. 431 (C.M.A. 1982).

*Victim KD*

Appellant committed an abusive sexual contact and three assaults consummated by a battery against Victim KD on three different occasions. Victim KD met Appellant on a dating application. (Pros. Ex. 1 ¶ 3.) She told him she was a virgin and did not want to have sexual intercourse until she was married. (Id.) During their brief relationship, Appellant “groped” KD’s breasts without her consent on three occasions. (Id. ¶ 4.) On all three occasions, KD told Appellant “no” and that she “did not want him to touch her breasts.” (Id.) On the third occasion Appellant groped KD’s breasts without her consent, KD responded “no” and “stop.” (Id. ¶ 6.) But rather than stop, Appellant pulled KD’s pants down and penetrated her vulva with his finger. (Id.) Again, KD told Appellant “no” and tried to push him off her with both hands. (Id.) Appellant responded that her “body [was] asking for it.” (Id.) Appellant then forced KD’s head onto his penis and held her head there as KD tried to pull away. (Id.) KD was choking and in pain from the forced fellatio. (Id. ¶ 7.) But Appellant did not stop there. (Id.) He flipped KD onto her stomach and held her down by putting his entire body weight on her as he anally penetrated her with his penis. (Id. ¶ 8.) Appellant told KD she “would have something to remember [him] by” after he sexually assaulted her without her consent. (Id.)

*Victim GH*

Appellant committed an abusive sexual contact and two assaults consummated by a battery against Victim GH on three different occasions. (Id. ¶ 9-11.) First, without GH’s knowledge or consent, Appellant inserted his penis into GH’s vagina, causing her to experience “sharp pain.” (Id. ¶ 9.) On the second occasion, Appellant pulled GH’s underwear down while she was kicking, pulled her tampon out of her vagina, and touched GH’s groin without her consent. (Id.) Appellant pulled GH’s tampon out of her vagina with the intent to “humiliate her.” (Id.) On the third

occasion, Appellant physically forced GH to bend over, and he forcefully inserted his penis into her vagina from behind without her consent. (Id. ¶ 11.) GH told Appellant it hurt and to “stop.” (Id.) But Appellant did not stop and continued to penetrate her vagina with his penis without the victim’s consent. (Id.)

*Victim SF*

Appellant committed an assault on Victim SF, an active-duty co-worker. (Id. ¶ 12.) Appellant penetrated Victim SF’s anus with his penis without her consent. (Id.)

*Victim KH*

Appellant committed sexual abuse of a child on Victim KH. At the time of the sexual abuse, KH was 15 years old. (Id. ¶ 13.) While at a Fourth of July party, Appellant followed KH around wherever she went. (Id.) Appellant danced provocatively on KH and put his buttocks on her. (Id.) KH responded by saying, “get away.” (Id.) KH also told Appellant she “wanted him out of her personal space.” (Id.) When KH walked out of the room, Appellant slammed the door on KH’s face. (Id. ¶ 14.) Appellant asked the other partygoers to leave the room so he could talk to KH alone. (Id.)

Once alone, Appellant tried to kiss KH five times. (Id.) When KH told Appellant she was only 15 years old, Appellant responded, “Don’t be a pussy.” (Id.) When KH again told Appellant she was only 15 years old, he responded, “age is just a number” and instructed her, “sit on this dick, or you’re a pussy.” (Id.) KH jumped up and tried to leave. (Id. ¶ 15.) Appellant grabbed her arm and said, “No, we need to talk.” (Id.) KH responded, “No, that’s disgusting, and stop calling me a pussy.” (Id.) Appellant repeated, “You’re a pussy if you don’t put your pussy on my dick.” (Id.) At this point KH texted an adult friend who was at the party, ML, and said “HELP PLEASE” and “Save me he’s trying to fuck.” (Id.)

At this point, KH's mother, AH, and ML opened the door to where KH was alone with Appellant. (Id. ¶ 16.) KH immediately ran out and told them what happened. (Id.) Appellant told KH's mother that KH was lying and "not to believe what she said." (Id.) Appellant yelled at KH's mother, "I can't believe you're going to believe that bitch, and you should know better to take my side and not hers." (Id.) After calling KH a "bitch," Appellant then got in KH's face and started yelling at her in front of the victim's mother and friend, ML. (Id. ¶ 17.)

#### *Victims ML and AH*

Appellant committed an aggravated assault against Victim ML by strangling him and an assault on Victim AH by striking her in the body with a closed fist. During the July Fourth incident described above, when Appellant got in KH's face and started yelling at her, Victim ML intervened. (Id. 17.) ML told Appellant to "back up." (Id.) Appellant responded, "You wanna fight, bro?" (Id.) Appellant then swung his fist at ML's face. (Id.) When ML ducked, Appellant's fist hit KH's mother, AH, who was standing behind ML. (Id.) ML punched Appellant in the face to make him stop his attack. (Id.) But Appellant escalated. (Id.) Appellant then grabbed ML around the neck and took him to the ground. (Id.) While on the ground, Appellant strangled ML with his arms and hands. (Id.) ML had difficulty breathing and began to black out due to the strangulation. (Id.) To stop Appellant's assault, AH grabbed a stun gun and used it on Appellant until he released ML. (Id.) ML suffered injuries because of Appellant's assault. (Id.) AH then reported Appellant's attack to the Air Force Office of Special Investigations (AFOSI).

#### *Obstruction of Justice*

During AFOSI's investigation into Appellant, a case agent called a witness, HK, who was at the July Fourth party described above. (Id. ¶ 21.) When the case agent called, HK was with Appellant. (Id.) Appellant instructed HK to put the phone on speaker and Appellant listened in on



the call. (Id.) After HK hung up with OSI, Appellant told HK to “say the least amount possible and say she was uncomfortable talking to investigators.” (Id.) Appellant directed HK to not participate in the investigation. (Id.) When OSI formally interviewed HK later, she followed Appellant’s direction and ended the interview after only a few questions. (Id.) After the interview, Appellant called HK to find out what she said. (Id.) Then, Appellant asked MK to ask Victim AH and Victim KH to “not say anything to AFOSI for their investigation.” (Id. ¶ 22.) HK complied and asked the two victims to not tell AFOSI what happened at the July Fourth party. (Id.)

## **ARGUMENT**

### ***Standard of Review***

This Court reviews sentence appropriateness de novo. United States v. Sauk, 74 M.J. 594, 606 (A.F. Ct. Crim. App. 2015) (en banc) (per curiam) (citation omitted). The Court may only affirm the sentence if it finds the sentence to be “correct in law and fact and determines, on the basis of the entire record, [it] should be approved.” Article 66(d)(1), UCMJ, 10 U.S.C. § 866(d)(1).

### ***Law***

Sentence appropriateness is assessed “by considering the particular appellant, the nature and seriousness of the offense, the appellant’s record of service, and all matters contained in the record of trial.” United States v. Anderson, 67 M.J. 703, 705 (A.F. Ct. Crim. App. 2009).

Although this Court has great discretion to determine whether a sentence is appropriate, the Court has no authority to grant mercy. United States v. Nerad, 69 M.J. 138, 146 (C.A.A.F. 2010) (citation omitted). Unlike the act of bestowing mercy through clemency, which was delegated to other hands by Congress, CCAs are entrusted with the task of determining sentence

appropriateness, thereby ensuring the accused gets the punishment he deserves. United States v. Healy, 26 M.J. 394, 395-96 (C.M.A. 1988).

A plea agreement with the convening authority is “some indication of the fairness and appropriateness of [an appellant’s] sentence.” United States v. Perez, No. ACM S32637 (f rev), 2021 CCA LEXIS 501, at \*7 (A.F. Ct. Crim. App. 28 September 2021) (unpub. op.).

### *Analysis*

While Appellant styles his issue presented as whether his confinement *and* dishonorable discharge are inappropriately severe, he only challenges his term of confinement. (App. Br. at 3, 8.) At the outset, Appellant received the benefit of a Plea Agreement. (App. Ex. VII.) This alone is “some indication of the fairness and appropriateness of his sentence.” Perez, 2021 CCA LEXIS at \*7. Pursuant to the Plea Agreement, the convening authority agreed to dismiss over half the specifications Appellant initially faced, including multiple sexual assault specifications. (ROT, Vol. 1, *Entry of Judgment*, dated 15 March 2022). Further, Appellant’s Plea Agreement required the military judge to enter consecutive segmented sentences and required the adjudged confinement sentences to be within the range agreed upon for each offense: “at least 3 months but not more than 6 months confinement” for each specification of each charge. (App. Ex. VII ¶ 5.) The total possible confinement Appellant could have received, pursuant to the Plea Agreement, was six years confinement. (Id.)

The plea agreement dramatically reduced Appellant’s sentence exposure as he was previously facing confinement for 40 years and 6 months based on his plea of guilty before he entered into a plea agreement. (R. at 101.) The plea agreement reduced Appellant’s sentence exposure by establishing a maximum confinement cap for each specification as well as dismissing approximately half the specifications. A plea agreement that dismisses specifications

is a “benefit” an appellant receives when accepting responsibility. *See United States v. Matichuk*, No. ACM S32611, 2020 CCA LEXIS 278, at \*6-7 (A.F. Ct. Crim. App. 19 August 2020) (unpub. op.).

Ultimately, the military judge determined an appropriate sentence was a dishonorable discharge, five years confinement and a reduction to the grade of E-1, and total forfeitures. (R. at 151.) The sentence was within the maximum available punishment given Appellant’s pleas of guilty.

Appellant’s sentence is an appropriate punishment because he repeatedly sexually assaulted, and physically assaulted, six different victims. Appellant isolated a child, and when an adult came to the child’s aid, Appellant accused the child of lying, called her a “bitch” and then hit both the child’s mother and an innocent bystander. Appellant almost strangled Victim ML to unconsciousness, and the only thing that stopped his attack was being hit with a stun gun. Appellant not only caused injury to several sexual partners by penetrating them without their consent, but he also assaulted one victim to “humiliate” her. Appellant’s argument focuses on his background and military service. But, importantly, Appellant ignores the severity and aggravating factors of his own crimes. At trial, three of the six victims presented significant impact via unsworn statement. (R. at 52-54).

The first victim, KH, was only 15 years old at the time of the incident. (Court Ex. A.) She described the “psychological damage” Appellant’s crimes had on her and how she has felt anxiety and fear because of Appellant’s crimes. (Id.) The second victim, SF, suffered from depression even seeking out “intensive counseling” and “group therapy” as a result of Appellant. (Court Ex. B.) The third victim, KD, was diagnosed with anxiety and PTSD in the wake of Appellant’s sexual assaults. (Court Ex. C.) She, too, sought counseling and psychiatric help due

to mental health issues stemming from Appellant's crimes. (Id.) Appellant knew KD was a virgin, and saving herself for marriage, yet stole her virginity from her during an assault. (Id.) The last time Appellant assaulted KD, he told her, "this will give you something to remember me by." (Id.) These words continue to "haunt" KD. (Id.)

The maximum confinement that could have been adjudged, pursuant to Appellant's Plea Agreement, was six years. (R. at 31.) Appellant was ultimately sentenced to only a fraction of that maximum term of confinement allowed. The adjudged amount of confinement was also below the recommendation of the trial counsel, who argued for six years confinement<sup>2</sup>. Further, while Appellant did receive a dishonorable discharge, this is not a case where he was retirement eligible or "approaching retirement eligible status" which would enhance the "lasting impact" of a punitive discharge. Jennings, 2014 CCA LEXIS at \*6.

Appellant advances two reasons why he should receive leniency. First, he provides "context" to the nature and seriousness of his convicted offenses. (App. Br. at 7-8.) But the only context Appellant provides is his personal hardships (separating from his wife, a motorcycle accident, his mom's death, and alcohol problems). (App. Br. at 7.) Appellant does not explain how these hardships influenced or affected his crimes. On the contrary, Appellant weaponized these same hardships to garner sympathy from at least one of his victims. (*See* Court Ex. B.) After Appellant shared these same hardships with Victim SF, she empathized more with him and excused his crimes. (Id.) It is aggravating that Appellant used his personal hardships to garner trust from a victim and then exploited that trust to facilitate a sexual assault. Moreover, the

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<sup>2</sup> "When he did these things that he pled guilty to today, he earned 6 years of confinement, reduction to E-1, total forfeiture of pay and allowances, and a dishonorable discharge. I ask that your sentence reflect that." (R. at 143.)

context of anally raping women and sexually abusing children overshadows the “context” of Appellant’s personal history.

Second, Appellant argues that his “personal characteristics” make the sentence inappropriately severe. (App. Br. at 7.) Specifically, Appellant highlights his humble beginnings, his desire to be a good husband and father, the fact that he completed alcohol treatment, and his “impeccable” military service. (App. Br. at 7-8.) But this evidence was presented to the military judge and highlighted with detail during trial defense counsel’s sentencing argument. (See R. at 145-147.) The military judge carefully reviewed all the evidence before arriving at an appropriate sentence in the case. Further, none of Appellant’s “personal characteristics” overshadow the seriousness of his repeated crimes against many victims.

Appellant got far less than “the punishment he deserves.” Healy, 26 M.J. at 395-96. He assaulted, and sexually assaulted, six victims, one of whom was a child. And Appellant obstructed justice by coaching a named victim to not participate in the criminal investigation and attempted to dissuade two more victims as well. (R. at 141.) Appellant left his victims with lasting trauma. Yet still, he claims he does not deserve a term of confinement that he negotiated. Appellant is not entitled to relief. This Court should affirm the appropriate sentence returned by the military judge.

### **CONCLUSION**

**WHEREFORE**, the United States respectfully requests this Court to deny Appellant’s claims and affirm the findings and sentence.

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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 Appellate  
Defense Division on 17 March 2023.

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