

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

UNITED STATES)	No. ACM 40658
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Chase L. SIMMONS)	
Staff Sergeant (E-5))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 10 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 opposed 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 17th day of October, 2024,

ORDERED:

Appellant's Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error not later than **19 December 2024**.

Each request for an enlargement of time will be considered on its 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.



FOR THE COURT

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OLGA STANFORD, Capt, USAF
Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FIRST)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40658
CHASE L. SIMMONS,)	
United States Air Force,	)	10 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 **19 December 2024**. The record of trial was docketed with this Court on 21 August 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 10 October 2024.

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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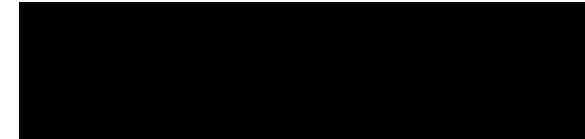
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Staff Sergeant (E-5)	)	ACM 40658
CHASE L. SIMMONS, USAF,)	
<i>Appellant.</i>	)	Panel No. 1

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

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

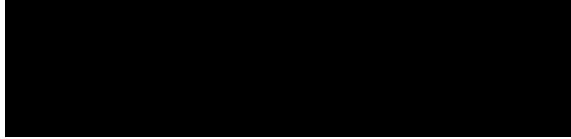
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force
(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 16 October 2024.



MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force
(240) 612-4800

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SECOND)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40658
CHASE L. SIMMONS,)	
United States Air Force,	)	11 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 **18 January 2025**. The record of trial was docketed with this Court on 21 August 2024. From the date of docketing to the present date, 112 days have elapsed. On the date requested, 150 days will have elapsed.

On 2 April 2024, a military judge sitting as a general court-martial at Davis-Monthan Air Force Base, Arizona, convicted Appellant, consistent with his pleas, of one charge and two specifications of committing state law offenses in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 205, Record of Trial (ROT) Vol. 1, Entry of Judgment, 3 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for six months, and a bad-conduct discharge. R. at 247. The convening authority took no action on the findings but disapproved the reprimand and waived automatic forfeitures for a period of six months, release from confinement, or expiration of term of service, whichever is sooner, with pay and allowances to be paid to Appellant’s spouse. ROT

Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Chase L. Simmons*, 2 July 2024.

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. 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 his 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
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 11 December 2024.

Respectfully submitted,

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

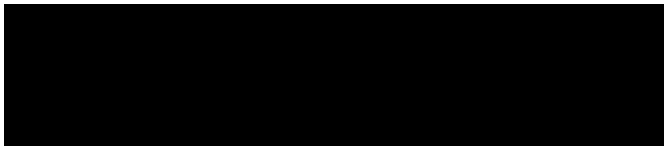
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Staff Sergeant (E-5)	)	ACM 40658
CHASE L. SIMMONS, USAF,)	
<i>Appellant.</i>	)	Panel No. 1

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

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

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



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 13 December 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
(240) 612-4800

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (THIRD)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40658
CHASE L. SIMMONS,)	
United States Air Force,	)	8 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 **17 February 2025**. The record of trial was docketed with this Court on 21 August 2024. From the date of docketing to the present date, 140 days have elapsed. On the date requested, 180 days will have elapsed.

On 2 April 2024, a military judge sitting as a general court-martial at Davis-Monthan Air Force Base, Arizona, convicted Appellant, consistent with his pleas, of one charge and two specifications of committing state law offenses in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 205, Record of Trial (ROT) Vol. 1, Entry of Judgment, 3 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for six months, and a bad-conduct discharge. R. at 247. The convening authority took no action on the findings but disapproved the reprimand and waived automatic forfeitures for a period of six months, release from confinement, or expiration of term of service, whichever is sooner, with pay and allowances to be paid to Appellant’s spouse. ROT


Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Chase L. Simmons*, 2 July 2024.

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. 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 his 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,

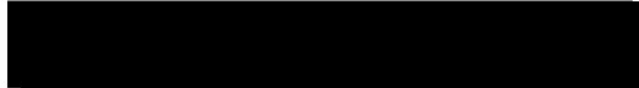


FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
Email: frederick.johnson.11@us.af.mil

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 8 January 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
Office: (240) 612-4770
Email: frederick.johnson.11@us.af.mil

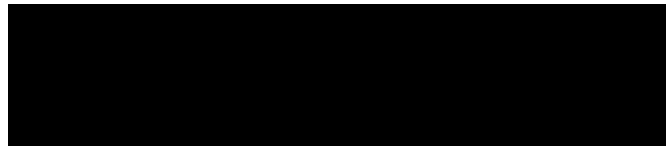
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Staff Sergeant (E-5)	)	ACM 40658
CHASE L. SIMMONS, USAF,)	
<i>Appellant.</i>	)	Panel No. 1

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

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

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



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 13 January 2025.



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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FOURTH)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40658
CHASE L. SIMMONS,)	
United States Air Force,	)	9 February 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 **19 March 2025**. The record of trial was docketed with this Court on 21 August 2024. From the date of docketing to the present date, 172 days have elapsed. On the date requested, 210 days will have elapsed.

On 2 April 2024, a military judge sitting as a general court-martial at Davis-Monthan Air Force Base, Arizona, convicted Appellant, consistent with his pleas, of one charge and two specifications of committing state law offenses in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 205, Record of Trial (ROT) Vol. 1, Entry of Judgment, 3 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for six months, and a bad-conduct discharge. R. at 247. The convening authority took no action on the findings but disapproved the reprimand and waived automatic forfeitures for a period of six months, release from confinement, or expiration of term of service, whichever is sooner, with pay and allowances to be paid to Appellant’s spouse. ROT

Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Chase L. Simmons*, 2 July 2024.

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. Appellant is not currently confined.

Counsel is currently representing 32 clients; 20 clients are pending initial AOE's before this Court. Additionally, two clients have pending briefs, and one other client has an upcoming oral argument before the United States Court of Appeals for the Armed Forces (CAAF).¹ Twelve matters currently have priority over this case:

- 1) *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 drafting a reply brief to the CAAF in this case.
- 2) *United States v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 24-0146/AF – The record of trial is nine volumes consisting of 14 prosecution exhibits, 16 defense exhibits, one court exhibit, and 47 appellate exhibits; the transcript is 896 pages.

¹ Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately 65 percent of the eight-volume record of trial and prepared a motion to remand in *U.S. v. Burkhardt-Bauder*, ACM 24011; prepared and filed a 17-page reply brief to the CAAF in *U.S. v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 24-0146/AF; assisted with preparing and filing a 44-page AOE in *U.S. v. Dawson*, ACM 24041; prepared and filed a six-page reply brief in *U.S. v. Henderson*, ACM 40419; began reviewing 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; began drafting a reply brief to the CAAF in *U.S. v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF; and participated in practice oral arguments for three additional cases. Additionally, counsel was off for the National Day of Mourning for President Carter's state funeral and the Birthday of Martin Luther King, Jr. holiday.

Undersigned counsel is preparing to present oral argument as lead counsel before the CAAF in this case on 26 February 2025.

- 3) *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 reviewing the Government’s brief and drafting an answer to the CAAF in this case.
- 4) *United States v. Burkhardt-Bauder*, ACM 24011 – The record of trial is eight volumes consisting of five prosecution exhibits, 19 defense exhibits, 53 appellate exhibits, and one court exhibit; the transcript is 957 pages. Undersigned counsel has reviewed approximately 80 percent of the record of trial in this case, including all non-sealed materials, and has filed a motion to remand for corrections to the record.
- 5) *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 begun reviewing the record of trial in this case.
- 6) *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.
- 7) *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 to prepare a brief on remand in this case.

- 8) *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.
- 9) *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.
- 10) *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.
- 11) *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.
- 12) *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.

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 his 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,

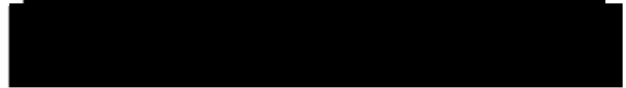


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Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
Email: frederick.johnson.11@us.af.mil

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Respectfully submitted,

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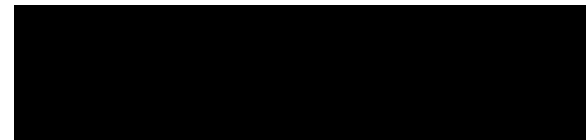
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Staff Sergeant (E-5)	)	ACM 40658
CHASE L. SIMMONS, USAF,)	
<i>Appellant.</i>	)	Panel No. 1

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

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

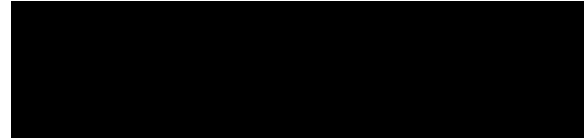
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
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MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force
(240) 612-4800

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FIFTH)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40658
CHASE L. SIMMONS,)	
United States Air Force,	)	10 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 30 days, which will end on **18 April 2025**. The record of trial was docketed with this Court on 21 August 2024. From the date of docketing to the present date, 201 days have elapsed. On the date requested, 240 days will have elapsed.

On 2 April 2024, a military judge sitting as a general court-martial at Davis-Monthan Air Force Base, Arizona, convicted Appellant, consistent with his pleas, of one charge and two specifications of committing state law offenses in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 205, Record of Trial (ROT) Vol. 1, Entry of Judgment, 3 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for six months, and a bad-conduct discharge. R. at 247. The convening authority took no action on the findings but disapproved the reprimand and waived automatic forfeitures for a period of six months, release from confinement, or expiration of term of service, whichever is sooner, with pay and allowances to be paid to Appellant’s spouse. ROT

Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Chase L. Simmons*, 2 July 2024.

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. Appellant is not currently confined.

Counsel is currently representing 36 clients; 21 clients are pending initial AOE's before this Court. Additionally, two clients have upcoming oral arguments, 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).¹ Eleven matters currently have priority over this case:

- 1) *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 drafting a supplemental reply brief and preparing to present oral argument as lead counsel before the CAAF in this case on 19 March 2025.
- 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 transcript is 329 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.

¹ Since the filing of Appellant's last request for an enlargement of time, counsel 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; reviewed approximately 15 percent of the seven-volume record of trial in *U.S. v. Haymond*, ACM 40588; prepared and filed a 13-page reply brief to the CAAF and conducted a practice oral argument in *U.S. v. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF; prepared and filed a 28-page 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.

- 3) *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 preparing to present oral argument as lead counsel before the CAAF in this case on 9 April 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 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.

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 his 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,

[REDACTED]

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 10 March 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

Office: (240) 612-4770

Email: frederick.johnson.11@us.af.mil

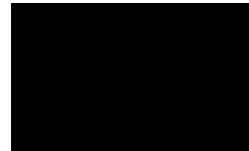
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 1
Staff Sergeant (E-5))	
CHASE L. SIMMONS,	)	No. ACM 40658
United States Air Force.)	
<i>Appellant.</i>	)	11 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.



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 11 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

UNITED STATES,)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SIXTH)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40658
CHASE L. SIMMONS,)	
United States Air Force,	)	11 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 **18 May 2025**. The record of trial was docketed with this Court on 21 August 2024. From the date of docketing to the present date, 233 days have elapsed. On the date requested, 270 days will have elapsed.

On 2 April 2024, a military judge sitting as a general court-martial at Davis-Monthan Air Force Base, Arizona, convicted Appellant, consistent with his pleas, of one charge and two specifications of committing state law offenses in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 205, Record of Trial (ROT) Vol. 1, Entry of Judgment, 3 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for six months, and a bad-conduct discharge. R. at 247. The convening authority took no action on the findings but disapproved the reprimand and waived automatic forfeitures for a period of six months, release from confinement, or expiration of term of service, whichever is sooner, with pay and allowances to be paid to Appellant’s spouse. ROT

Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Chase L. Simmons*, 2 July 2024.

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. 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 before this Court.¹ Eight 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 twenty-five percent of the record of trial in this case.
- 2) *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 completed his review of the record of trial and begun drafting the AOE in this case.

¹ 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 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. Taylor*, ACM 40371, USCA Dkt. No. 24-0234/AF; conducted three practice oral arguments and presented oral argument as lead counsel before the CAAF in *U.S. v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF; petitioned the CAAF for a grant of review and prepared and filed a twenty-seven-page 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; and completed his review of the three-volume record of trial and began drafting the AOE in *U.S. v. Harnar*, ACM 40559. Additionally, counsel attended the CAAF wreath laying ceremony and reception on 25 March 2025.

- 3) *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 to prepare a brief on remand in this case.
- 4) *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.
- 5) *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.
- 6) *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.
- 7) *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.
- 8) *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.

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 his 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 11 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

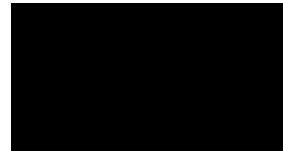
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 1
Staff Sergeant (E-5))	
CHASE L. SIMMONS,	)	No. ACM 40658
United States Air Force.)	
<i>Appellant</i>	)	15 April 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.

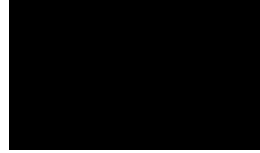
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 15 April 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

UNITED STATES,)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SEVENTH)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40658
CHASE L. SIMMONS,)	
United States Air Force,	)	8 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 **17 June 2025**. The record of trial was docketed with this Court on 21 August 2024. From the date of docketing to the present date, 260 days have elapsed. On the date requested, 300 days will have elapsed.

On 2 April 2024, a military judge sitting as a general court-martial at Davis-Monthan Air Force Base, Arizona, convicted Appellant, consistent with his pleas, of one charge and two specifications of committing state law offenses in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 205, Record of Trial (ROT) Vol. 1, Entry of Judgment, 3 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for six months, and a bad-conduct discharge. R. at 247. The convening authority took no action on the findings but disapproved the reprimand and waived automatic forfeitures for a period of six months, release from confinement, or expiration of term of service, whichever is sooner, with pay and allowances to be paid to Appellant’s spouse. ROT

Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Chase L. Simmons*, 2 July 2024.

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. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-eight clients; twenty-four clients are pending initial AOE before this Court.¹ Seven 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 fifty 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 to prepare a brief on remand in this case.

¹ Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately twenty-five percent of the seven-volume record of trial in *U.S. v. Haymond*, ACM 40588; assisted with preparing and filing two motions before this Court and one motion before the United States Court of Appeals for the Armed Forces (CAAF) in *U.S. v. Dawson*, ACM 24041; 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; prepared and presented a briefing for the Air Force Senior Defense Counsel Qualification Course; and participated in four practice oral arguments for two additional cases. Additionally, counsel was on leave on 18 and 26–29 April and 2–4 May 2025.

- 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 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.

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 his 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 8 May 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’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
	)	Before Panel No. 1
Staff Sergeant (E-5))	
CHASE L. SIMMONS,	)	No. ACM 40658
United States Air Force,)	
<i>Appellant.</i>)	
	)	12 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 nearly a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 300 days in length. Appellant’s nearly year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed almost two thirds of the 18-month standard for this Court to issue a decision, which only leaves about 8 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not yet begun reviewing the record of trial at this late stage of the appellate process.

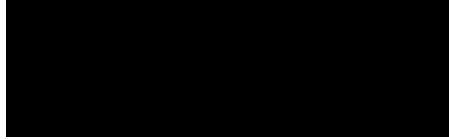
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 12 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

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (EIGHTH)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40658
CHASE L. SIMMONS,)	
United States Air Force,	)	6 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 **17 July 2025**. The record of trial was docketed with this Court on 21 August 2024. From the date of docketing to the present date, 289 days have elapsed. On the date requested, 330 days will have elapsed.

On 2 April 2024, a military judge sitting as a general court-martial at Davis-Monthan Air Force Base, Arizona, convicted Appellant, consistent with his pleas, of one charge and two specifications of committing state law offenses in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 205, Record of Trial (ROT) Vol. 1, Entry of Judgment, 3 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for six months, and a bad-conduct discharge. R. at 247. The convening authority took no action on the findings but disapproved the reprimand and waived automatic forfeitures for a period of six months, release from confinement, or expiration of term of service, whichever is sooner, with pay and allowances to be paid to Appellant’s spouse. ROT

Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Chase L. Simmons*, 2 July 2024.

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. 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.¹ 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). Five 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 completed his review of the record of trial and begun drafting the AOE 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, thirty-six appellate exhibits, and one

¹ 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 a motion 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); completed his review of the four-volume record of trial and began drafting the AOE in *U.S. v. Keilberg*, ACM 40601; and participated in five practice oral arguments for two additional cases. Additionally, counsel was off for the Memorial Day holiday and attended the funeral service for CMSgt Swigonski at Arlington National Cemetery on 28 May 2025.

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 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. 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, but additional counsel has been detailed to 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.

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 his 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
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 6 June 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

Office: (240) 612-4770

Email: frederick.johnson.11@us.af.mil

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

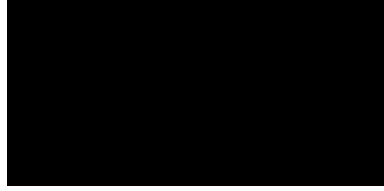
UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
)	
v.)	
)	
	)	Before Panel No. 1
Staff Sergeant (E-5))	
CHASE L. SIMMONS,	)	No. ACM 40658
United States Air Force,)	
<i>Appellant.</i>	)	10 June 2025
)	

**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 nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 330 days in length. Appellant's nearly year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two thirds of the 18-month standard for this Court to issue a decision, which only leaves about 7 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not yet 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.



JOCELYN Q. WRIGHT, 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 10 June 2025.



JOCELYN Q. WRIGHT, 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

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (NINTH)
)	
v.	)	Before Panel No. 1
)	
Staff Sergeant (E-5)	)	No. ACM 40658
CHASE L. SIMMONS,)	
United States Air Force,	)	8 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 **16 August 2025**. The record of trial was docketed with this Court on 21 August 2024. From the date of docketing to the present date, 321 days have elapsed. On the date requested, 360 days will have elapsed.

On 2 April 2024, a military judge sitting as a general court-martial at Davis-Monthan Air Force Base, Arizona, convicted Appellant, consistent with his pleas, of one charge and two specifications of committing state law offenses in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 205, Record of Trial (ROT) Vol. 1, Entry of Judgment, 3 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for six months, and a bad-conduct discharge. R. at 247. The convening authority took no action on the findings but disapproved the reprimand and waived automatic forfeitures for a period of six months, release from confinement, or expiration of term of service, whichever is sooner, with pay and allowances to be paid to Appellant’s spouse. ROT

Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Chase L. Simmons*, 2 July 2024.

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. 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.¹ Additionally, one client has an upcoming supplement to the petition for grant of review and another client has a pending answer brief, both before the United States Court of Appeals for the Armed Forces (CAAF). Five matters currently have priority over this case:

- 1) *United States v. York*, ACM 40604, USCA Dkt. No. 25-0200/AF – The record of trial is seven volumes consisting of five prosecution exhibits, two defense exhibits, thirty-six 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.
- 2) *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

¹ 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; 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 prepared and filed a two-page reply brief in *U.S. v. Haymond*, ACM 40588; reviewed the Government's answer and prepared and filed an eight-page reply brief in *U.S. v. Driskill*, ACM 39889 (rem); and prepared and filed a motion to withdraw from appellate review in *U.S. v. Harnar*, ACM 40559 (f rev). Additionally, counsel was off for the Juneteenth and Independence Day holidays.

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 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 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.
- 4) *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.
- 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.

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 his 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
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 8 July 2025.

Respectfully submitted,

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

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Appellate Defense Counsel
Air Force Appellate Defense Division
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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' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
)	
v.)	
)	
	)	Before Panel No. 1
Staff Sergeant (E-5))	
CHASE L. SIMMONS,	)	No. ACM 40658
United States Air Force,)	
<i>Appellant.</i>	)	8 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 nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 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 yet begun review of the record of trial at this late stage of the appellate process.

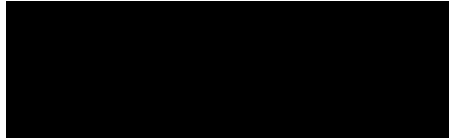
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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 8 July 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

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

UNITED STATES)	No. ACM 40658
<i>Appellee</i>)	
)	
v.)	
	)	NOTICE OF PANEL CHANGE
Chase L. SIMMONS)	
Staff Sergeant (E-5))	
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

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

UNITED STATES)	No. ACM 40658
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Chase L. SIMMONS)	
Technical Sergeant (E-6))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 3

On 7 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.

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 12th day of August, 2025,

ORDERED:

Appellant's Motion for Enlargement of Time (Tenth) is **GRANTED**. Appellant shall file any assignments of error not later than **15 September 2025**.

Further requests by Appellant for enlargements of time will necessitate a status conference and may not be approved absent exceptional circumstances.



FOR THE COURT

[Redacted Signature]

AGNIESZKA M. GAERTNER, Capt, USAF
Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (TENTH)
)	
v.	)	Before Panel No. 3
)	
Staff Sergeant (E-5)	)	No. ACM 40658
CHASE L. SIMMONS,)	
United States Air Force,	)	7 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 **15 September 2025**. The record of trial was docketed with this Court on 21 August 2024. From the date of docketing to the present date, 351 days have elapsed. On the date requested, 390 days will have elapsed.

On 2 April 2024, a military judge sitting as a general court-martial at Davis-Monthan Air Force Base, Arizona, convicted Appellant, consistent with his pleas, of one charge and two specifications of committing state law offenses in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 205, Record of Trial (ROT) Vol. 1, Entry of Judgment, 3 July 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-1, confinement for six months, and a bad-conduct discharge. R. at 247. The convening authority took no action on the findings but disapproved the reprimand and waived automatic forfeitures for a period of six months, release from confinement, or expiration of term of service, whichever is sooner, with pay and allowances to be paid to Appellant’s spouse. ROT

Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Chase L. Simmons*, 2 July 2024.

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. Appellant is not currently confined. Undersigned counsel has begun reviewing the record of trial in this case.

Counsel is currently representing thirty-three clients; nineteen clients are pending initial AOE's before this Court.¹ 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. 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 is completing his review of the record of trial and drafting the AOE 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

¹ Since the filing of Appellant's last request for an enlargement of time, counsel 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 an eleven-page answer brief 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; began drafting the AOE in *U.S. v. Banks*, ACM 24057; and began reviewing the record of trial in this case. Additionally, counsel was on leave on 17–20 July and 1–5 August 2025.

to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of his 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 tenth 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 7 August 2025.

Respectfully submitted,

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

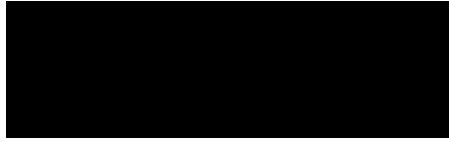
UNITED STATES,)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
)	
v.)	
)	
	)	Before Panel No. 3
Staff Sergeant (E-5))	
CHASE L. SIMMONS,	)	No. ACM 40658
United States Air Force,)	
<i>Appellant.</i>	)	7 August 2025
)	

**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 nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 390 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 5 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not yet completed review of the record of trial at this late stage of the appellate process.

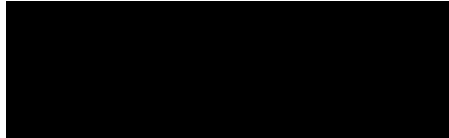
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel
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**UNITED STATES AIR FORCE
COURT OF CRIMINAL APPEALS**

UNITED STATES)	No. ACM 40658
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Chase L. SIMMONS)	
Staff Sergeant (E-5))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 3

On 8 September 2025, counsel for Appellant submitted a Consent Motion to Examine Sealed Materials, requesting to be allowed to examine Appellate Exhibits XVII, XVIII, XIX, and XXX in Appellant’s record of trial. All of these exhibits were reviewed by trial counsel and trial defense counsel at Appellant’s court-martial.

Appellate counsel may examine sealed materials released to counsel at trial “upon a colorable showing . . . that examination is reasonably necessary to a proper fulfillment of the appellate counsel’s responsibilities” Rule for Courts-Martial 1113(b)(3)(B)(i), *Manual for Courts-Martial, United States* (2024 ed.).

The court finds Appellant has made a colorable showing that review of sealed materials is reasonably necessary for a proper fulfillment of appellate counsel’s responsibilities. This court’s order permits counsel for both parties to examine the materials.

Accordingly, it is by the court on this 9th day of September 2025,

ORDERED:

Appellant’s Consent Motion to Examine Sealed Materials is **GRANTED**.

Appellate defense counsel and appellate government counsel may view **Appellate Exhibits XVII, XVIII, XIX, and XXX**, subject to the following conditions:

To view the sealed materials, counsel will coordinate with the court.

No counsel granted access to the materials may photocopy, photograph, reproduce, disclose, or make available the content to any other individual without the court's prior written authorization.



FOR THE COURT

[REDACTED]

JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	CONSENT MOTION
<i>Appellee,</i>	)	TO EXAMINE SEALED
	)	MATERIALS
)	
v.	)	Before Panel No. 3
)	
Staff Sergeant (E-5)	)	No. ACM 40658
CHASE L. SIMMONS,)	
United States Air Force,	)	8 September 2025
<i>Appellant.</i>)	

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

Pursuant to Rule for Courts-Martial (R.C.M.) 1113(b)(3)(B)(i) and Rules 3.1, 23.1(b), and 23.3(f)(1) of this Honorable Court’s Rules of Practice and Procedure, Appellant, Staff Sergeant Chase L. Simmons, hereby moves this Court to permit appellate counsel for the Appellant and the Government to examine Appellate Exhibits XVII, XVIII, XIX, and XXX in Appellant’s record of trial.

Facts

On 2 April 2024, a military judge sitting as a general court-martial at Davis-Monthan Air Force Base, Arizona, convicted Appellant, consistent with his pleas, of one charge and two specifications of committing state law offenses in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 205, Record of Trial (ROT) Vol. 1, Entry of Judgment, 3 July 2024 (EOJ). In the course of the proceedings, trial defense counsel filed a motion to admit evidence pursuant to Mil. R. Evid. 412, and the trial counsel and victim’s counsel subsequently filed responses. R. at 28–29; App. Exs. XVII, XVIII, XIX. The military judge did not conduct a closed Article 39(a), UCMJ, session but did issue a written ruling on this motion. R. at 31–32, 130; App. Ex. XXX. The military judge ordered that the documents related to this

motion, which consist of Appellate Exhibits XVII, XVIII, XIX, and XXX, be sealed. R. at 29, 130; App. Ex. XXXI.

Law

Appellate counsel may examine materials presented or reviewed at trial and sealed, as well as materials reviewed *in camera*, released to trial or defense counsel, and sealed, upon a colorable showing to the appellate authority that examination is reasonably necessary to a proper fulfillment of the appellate counsel's responsibilities under the UCMJ, the Manual for Courts-Martial, governing directives, instructions, regulations, applicable rules for practice and procedure, or rules of professional conduct. R.C.M. 1113(b)(3)(B)(i).

Air Force regulations governing professional duties and conduct of appellate defense counsel impose upon counsel, *inter alia*, a duty to provide "competent representation," perform "reasonable diligence," and to "give a client his or her best professional evaluation of the questions that might be presented on appeal...[to] consider all issues that might affect the validity of the judgment of conviction and sentence...[to] advise on the probable outcome of a challenge to the conviction or sentence...[and to] endeavor to persuade the client to abandon a wholly frivolous appeal or to eliminate contentions lacking in substance." Air Force Instruction (AFI) 51-110, *Professional Responsibility Program*, Attachment 2: Air Force Rules of Professional Conduct, Rule 1.1, Attachment 7: Air Force Standards for Criminal Justice, Standard 4-8.3(b) (11 December 2018). These requirements are consistent with those imposed by the state bar to which counsel belongs.¹

This Court may grant relief "on the basis of the entire record" of trial. Article 66, UCMJ, 10 U.S.C. § 866. Appellate defense counsel so detailed by The Judge Advocate General shall

¹ Counsel of record is licensed to practice law in Georgia.

represent accused servicemembers before this Court. Article 70, UCMJ, 10 U.S.C. § 870. This Court's "broad mandate to review the record unconstrained by appellant's assignments of error" does not reduce "the importance of adequate representation" by counsel; "independent review is not the same as competent appellate representation." *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998).

Analysis

The sealed materials include four appellate exhibits, all of which were "presented" and "reviewed" by the parties at trial. R.C.M. 1113(b)(3)(B)(i). It is reasonably necessary for Appellant's counsel to review these sealed materials for counsel to competently conduct a professional evaluation of Appellant's case and uncover all issues which might afford him relief. Because examination of the materials in question is reasonably necessary to the fulfillment of counsel's Article 70, UCMJ duties, and because the materials were available to the parties at trial, Appellant has provided the "colorable showing" required by R.C.M. 1113(b)(3)(B)(i) to permit his counsel's examination of these sealed materials and has shown good cause to grant this motion.

The Government consents to both parties examining the sealed materials detailed above.

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews, MD 20762-6604
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Respectfully submitted,

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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee,

v.

Staff Sergeant (E-5)

CHASE L. SIMMONS,

United States Air Force,

Appellant.

**BRIEF ON BEHALF OF
APPELLANT**

Before Panel No. 3

No. ACM 40658

15 September 2025

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

Assignment of Error

Whether the Government can prove that 18 U.S.C. § 922 is constitutional as applied to Staff Sergeant Simmons when he was convicted of offenses that do not fall within the Nation’s historical tradition of firearm regulation.

Statement of the Case

On 2 April 2024, a military judge sitting as a general court-martial at Davis-Monthan Air Force Base, Arizona, convicted Appellant, Staff Sergeant (SSgt) Chase Simmons, consistent with his pleas, of one charge and two specifications of violating Georgia law by recording the activities of a person in a private place and out of public view without their consent in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 205, Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ) (July 3, 2024). The military judge sentenced SSgt Simmons to a reprimand, reduction to the grade of E-1, confinement for six months, and a bad-conduct discharge. R. at 247. The convening authority took no action on the findings but disapproved the reprimand and waived automatic forfeitures for a period of six months, release from confinement, or expiration of term of service, whichever is sooner, with pay and allowances to be paid to

Appellant's spouse. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Chase L. Simmons* (July 2, 2024).

Statement of Facts

At the time of the offenses, SSgt Simmons was married to DS. R. at 167; Pros. Ex. 1 at 1. In December 2020, DS's mother, VR, and younger sister, KR, came to visit DS and SSgt Simmons and stayed at their house in Valdosta, Georgia. R. at 151, 154, 167. One day while staying with them, VR was in the guest bathroom with the door closed. R. at 151. SSgt Simmons used his phone to record VR by positioning the phone's camera to record VR in the bathroom through the gap between the bathroom door and the floor. *Id.* VR did not know she was being recorded and did not consent to being recorded. R. at 151–52. Another time during the same visit, KR was in SSgt Simmons's and DS's bedroom, which they occasionally allowed her to use for privacy. R. at 168. SSgt Simmons recorded KR in the same manner, by positioning his phone's camera to view her in the bedroom through the gap between the door and the floor. *Id.* KR also did not know she was being recorded and did not consent to being recorded. *Id.* Both of these recordings remained on SSgt Simmons's phone until DS found them and deleted them in June 2022. Pros. Ex. 1 at 2. DS later confronted SSgt Simmons about these recordings in November 2022 while they were pending divorce. *Id.* DS later made a report to the Air Force Office of Special Investigations. App. Ex. XXIX at 4.

SSgt Simmons pleaded guilty to two specifications of violating Georgia law by recording VR and KR in private without their consent. R. at 205. The first indorsements to both the EOJ and Statement of Trial Results (STR) state that SSgt Simmons is subject to a "Firearm Prohibition Triggered Under 18 U.S.C. § 922." EOJ; ROT Vol. 1, STR (Apr. 3, 2024).

Argument

The Government cannot prove 18 U.S.C. § 922 is constitutional as applied to Staff Sergeant Simmons because he was convicted of offenses that do not fall within the Nation’s historical tradition of firearm regulation.

Standard of Review

Whether post-trial processing was properly completed is reviewed de novo. *United States v. Zegarrundo*, 77 M.J. 612, 613–14 (A.F. Ct. Crim. App. 2018) (citing *United States v. Kho*, 54 M.J. 63, 65 (C.A.A.F. 2000)). This Court reviews questions of jurisdiction, law, and statutory interpretation de novo. *United States v. Lepore*, 81 M.J. 759, 760 (A.F. Ct. Crim. App. 2021).

Law and Analysis

SSgt Simmons acknowledges that the United States Court of Appeals for the Armed Forces (CAAF) recently held that this Court lacks the authority to act upon the indication of a firearm prohibition under 10 U.S.C. § 922. *United States v. Johnson*, __ M.J. __, No. 24-0004/SF, 2025 CAAF LEXIS 499, at *2 (C.A.A.F. June 24, 2025). However, SSgt Simmons asserts that *Johnson* was wrongly decided and that the firearm prohibition indicated on the first indorsement to the EOJ is unconstitutional, as applied, because the offenses to which he pleaded guilty do not fall within the Nation’s historical tradition of firearm regulation. *See N.Y. State Rifle & Pistol Ass’n v. Bruen*, 597 U.S. 1, 17 (2022) (holding that the Government must justify a firearm regulation by demonstrating that it is “consistent with this Nation’s historical tradition of firearm regulation”). He raises this issue for preservation purposes.

WHEREFORE, SSgt Simmons respectfully requests that this Court hold that 18 U.S.C. § 922 is unconstitutional as applied to him.

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 15 September 2025.

Respectfully submitted,



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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, <i>Appellee,</i>	)	ANSWER TO ASSIGNMENTS OF
	)	ERROR
)	
v.	)	Before Panel No. 3
)	
Staff Sergeant (E-5)	)	No. ACM 40658
CHASE L. SIMMONS)	
United States Air Force	)	16 September 2025
<i>Appellant.</i>)	

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

ISSUE PRESENTED

**WHETHER 18 U.S.C. § 922 IS CONSTITUTIONAL AS
APPLIED TO APPELLANT.**

STATEMENT OF CASE

The United States generally agrees with Appellant’s statement of the case.

STATEMENT OF FACTS

The United States has no additional facts necessary to address this assignment of error.

ARGUMENT

**THIS COURT LACKS JURISDICTION TO ADDRESS
APPELLANT’S § 922 ISSUE.**

Standard of Review


This Court reviews questions of jurisdiction *de novo*. United States v. Williams, 85 M.J. 121, 124 (C.A.A.F. 2024) (citing United States v. Kuemmerle, 67 M.J. 141, 143 (C.A.A.F. 2009)).

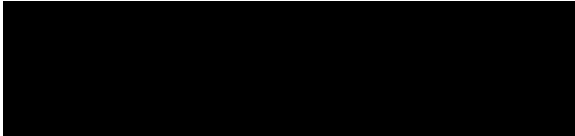
Law and Analysis

Appellant's claim fails in light of United States v. Johnson, No. 24-0004/SF, slip op. at 2 (C.A.A.F. 24 June 2025). In Johnson, the Court of Appeals for the Armed Forces held that it "lacks authority to act upon a § 922 indication because no Court of Criminal Appeals has the authority to act upon that indication in the first instance," and that the question of 18 U.S.C. § 922's constitutionality was therefore "moot." Id. The same situation is present here. This Court should deny this assignment of error.

CONCLUSION

For these reasons, the United States respectfully requests that this Honorable Court deny Appellant's claims and affirm the findings and sentence in this case.


ABHISHEK S. KAMBLI, Maj, USAFR
Appellate Government Counsel
Government Trial and
Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800


MARY ELLEN PAYNE
Associate Chief
Government Trial and
Appellate Counsel 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 the Air Force
Appellate Defense Division on 16 September 2025.



ABHISHEK S. KAMBLI, Maj, USAFR
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force
(240) 612-4800