
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 Air Force Government Trial and Appellate Operations Division on 27 May 2025.

[REDACTED]

JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel

[REDACTED]

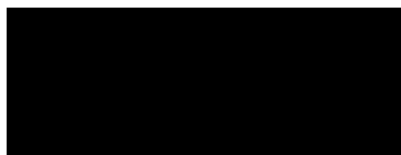
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 1
Staff Sergeant (E-5)	)	
CHRISTOPHER M. TOOLAN,	)	No. ACM 40804
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	30 May 2025

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

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

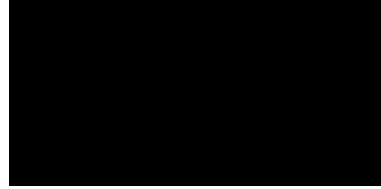


JOCÉLYN Q. WRIGHT, Maj, USAF
Appellate Government Counsel



CERTIFICATE OF FILING AND SERVICE

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



JOCELYN Q. WRIGHT, Maj, USAF
Appellate Government Counsel



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

UNITED STATES	)	No. ACM 40804
<i>Appellee</i>	)	
	)	
v.	)	
	)	ORDER
Christopher M. TOOLAN	)	
Staff Sergeant (E-5)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	Panel 1

On 27 May 2025, 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 generally 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 4th day of June, 2025,

ORDERED:

Appellant's Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error not later than **6 August 2025**.

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

[Redacted signature]

OLGA STANFORD, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee,

v.

Staff Sergeant (E-5)

CHRISTOPHER M. TOOLAN,

United States Air Force,

Appellant.

) **APPELLANT’S MOTION**

) **FOR ENLARGEMENT**

) **OF TIME (SECOND)**

)

) Before Panel No. 1

)

) No. ACM 40804

)

) 28 July 2025

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

Pursuant to Rule 23.3(m)(1) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **5 September 2025**.

Appellant’s case was docketed with this Court on 8 April 2025. From the date of docketing to the present date, 111 days have elapsed. On the date requested, 150 days will have elapsed since docketing.

From 21 through 22 August 2024, Appellant was tried by a general court-martial consisting of a military judge alone at Royal Air Force Lakenheath, United Kingdom. R. at 21, 35-26, 398; Entry of Judgment (EOJ). Appellant was convicted, consistent with his pleas of one charge and seven specifications of sexual abuse of a child, in violation of Article 120b, Uniform Code of Military Justice (UCMJ); and one charge and three specifications of production and possession of child pornography, in violation of Article 134, UCMJ. R. at 40, 259; Appellate Exhibit XXXII; EOJ. Pursuant to a plea agreement, three specifications of sexual abuse of a child, in violation of Article 120b, UCMJ, were dismissed with prejudice. R. at 398, Appellate Exhibit XXXII; EOJ.

The military judge sentenced Appellant to a reprimand, reduction in pay grade to Airman Basic (E-1), thirty years confinement, and a dishonorable discharge.¹ R. at 397.

The record of trial consists of seventy-six Prosecution Exhibits, four Court Exhibits, one Defense Exhibit, and thirty-seven Appellate Exhibits; the transcript is 399 pages. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

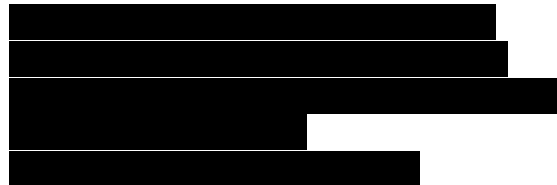
Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,



JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel



¹ Appellant was credited with 657 days of confinement credit. R. at 397.

CERTIFICATE OF FILING AND SERVICE

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[REDACTED]

JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel

[REDACTED]
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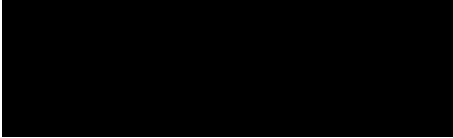
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 1
Staff Sergeant (E-5)	)	
CHRISTOPHER M. TOOLAN,	)	No. ACM 40804
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	28 July 2025

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

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

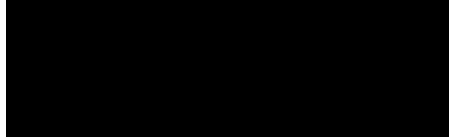

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel





CERTIFICATE OF FILING AND SERVICE

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



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee,

V.

Staff Sergeant (E-5)

CHRISTOPHER M. TOOLAN,

United States Air Force,

Appellant.

) APPELLANT'S MOTION

) **FOR ENLARGEMENT**

) OF TIME (THIRD)

)

) Before Panel No. 1

)

) No. ACM 40804

)

) 25 August 2025

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

Pursuant to Rule 23.3(m)(1) and (4) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **5 October 2025**.

Appellant's case was docketed with this Court on 8 April 2025. From the date of docketing to the present date, 139 days have elapsed. On the date requested, 180 days will have elapsed since docketing.

From 21 through 22 August 2024, Appellant was tried by a general court-martial consisting of a military judge alone at Royal Air Force Lakenheath, United Kingdom. R. at 21, 35-26, 398; Entry of Judgment (EOJ). Appellant was convicted, consistent with his pleas of one charge and seven specifications of sexual abuse of a child, in violation of Article 120b, Uniform Code of Military Justice (UCMJ); and one charge and three specifications of production and possession of child pornography, in violation of Article 134, UCMJ. R. at 40, 259; Appellate Exhibit XXXII; EOJ. Pursuant to a plea agreement, three specifications of sexual abuse of a child, in violation of Article 120b, UCMJ, were dismissed with prejudice. R. at 398, Appellate Exhibit XXXII; EOJ.

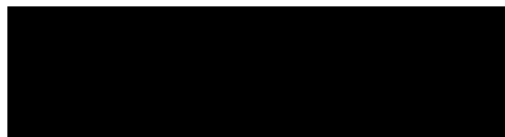
The military judge sentenced Appellant to a reprimand, reduction in pay grade to Airman Basic (E-1), thirty years confinement, and a dishonorable discharge.¹ R. at 397.

The record of trial consists of seventy-six Prosecution Exhibits, four Court Exhibits, one Defense Exhibit, and thirty-seven Appellate Exhibits; the transcript is 399 pages. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,



JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel



¹ Appellant was credited with 657 days of confinement credit. R. at 397.

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 Air Force Government Trial and Appellate Operations Division on 25 August 2025.

[REDACTED]

JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 1
Staff Sergeant (E-5)	)	
CHRISTOPHER M. TOOLAN,	)	No. ACM 40804
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	25 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 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.

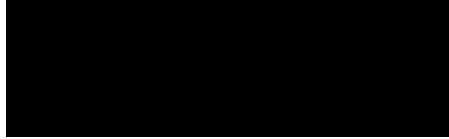
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VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

[REDACTED]
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[REDACTED]
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CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 25 August 2025.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee,

v.

Staff Sergeant (E-5)

CHRISTOPHER M. TOOLAN,

United States Air Force,

Appellant.

) **APPELLANT’S MOTION**

) **FOR ENLARGEMENT**

) **OF TIME (FOURTH)**

)

) Before Panel No. 1

)

) No. ACM 40804

)

) 28 September 2025

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

Pursuant to Rule 23.3(m)(1), (4), and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **4 November 2025**.

Appellant’s case was docketed with this Court on 8 April 2025. From the date of docketing to the present date, 173 days have elapsed. On the date requested, 210 days will have elapsed since docketing.

From 21 through 22 August 2024, Appellant was tried by a general court-martial consisting of a military judge alone at Royal Air Force Lakenheath, United Kingdom. R. at 21, 35-26, 398; Entry of Judgment (EOJ). Appellant was convicted, consistent with his pleas of one charge and seven specifications of sexual abuse of a child, in violation of Article 120b, Uniform Code of Military Justice (UCMJ); and one charge and three specifications of production and possession of child pornography, in violation of Article 134, UCMJ. R. at 40, 259; Appellate Exhibit XXXII; EOJ. Pursuant to a plea agreement, three specifications of sexual abuse of a child, in violation of Article 120b, UCMJ, were dismissed with prejudice. R. at 398, Appellate Exhibit XXXII; EOJ.

The military judge sentenced Appellant to a reprimand, reduction in pay grade to Airman Basic (E-1), thirty years confinement, and a dishonorable discharge.¹ R. at 397.

The record of trial consists of seventy-six Prosecution Exhibits, four Court Exhibits, one Defense Exhibit, and thirty-seven Appellate Exhibits; the transcript is 399 pages. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Maj Grande is currently assigned twenty-nine cases; twenty-three cases are pending before this Court (eighteen cases are pending AOE's). Twelve cases have priority over the present case:

1. *United States v. Castillo*, ACM No. 40705- The record of trial consists of seven volumes, with five Prosecution Exhibits, one Court Exhibit, one Defense Exhibit, and thirty-four Appellate Exhibits. The transcript is 470 pages long. Appellant is not currently confined. Undersigned counsel will file this AOE on 30 September.
2. *United States v. Marcoux*, ACM No. 40708- The record of trial consists of twelve volumes, with twenty-nine Prosecution Exhibits, one Court Exhibit, seventeen Defense Exhibits, and eighty-three Appellate Exhibits. The transcript is 1345 pages long. Appellant is currently confined. Undersigned counsel is reviewing the record for this case.
3. *United States v. Heilig*, ACM No. 40740 - The record of trial consists of one e-ROT with six volumes, three Prosecution Exhibits, eight Defense Exhibits, and six Appellate

¹ Appellant was credited with 657 days of confinement credit. R. at 397.

Exhibits; the transcript is 135 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of this case.

4. *United States v. Cunningham*, ACM No. 40746 - The record of trial consists of ten volumes with twelve Prosecution Exhibits, one Court Exhibit, seven Defense Exhibits, and eighty-five Appellate Exhibits. The transcript is 1,249 pages long. Appellant is currently confined. Undersigned counsel has completed her review of the record for this case.
5. *United States v. See*, ACM No. S32805 - The record of trial consists of one e-ROT with two volumes, three Prosecution Exhibits, two Court Exhibits, six Defense Exhibits, and four Appellate Exhibits; the transcript is 341 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of this case.
6. *United States v. Torres*, ACM No. 40758 - The record of trial consists of one e-ROT with two volumes, four Prosecution Exhibits, one Court Exhibit, five Defense Exhibits, and five Appellate Exhibits; the transcript is 112 pages long. Appellant is not currently confined. Undersigned counsel has completed her review of this case.
7. *United States v. Declue*, ACM No. 40769 – The record of trial consists of one E-ROT consisting of six volumes, with sixteen Prosecution Exhibits, five Defense Exhibits, and fifty Appellate Exhibits. The transcript is 626 pages long. Appellant is currently confined. Undersigned counsel has completed her review of the record for this case.
8. *United States v. Ward*, ACM No. 40749 – The record of trial consists of one e-ROT with eleven volumes, with four Prosecution Exhibits, one Defense Exhibit, and thirty-seven Appellate Exhibits. The transcript is 370 pages long. Appellant is currently

confined. Undersigned counsel has not yet completed her review of the record for this case.

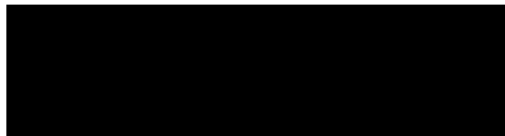
9. *United States v. Echavarria*, ACM No. S32810 - The record of trial consists of one e-ROT with three Prosecution Exhibits, one Defense Exhibit, and four Appellate Exhibits; the transcript is 101 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.
10. *United States v. Hepburn*, ACM No. 40778 - The record of trial consists of one e-ROT with five Prosecution Exhibits, seven Defense Exhibits, and thirteen Appellate Exhibits; the transcript is 107 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of this case.
11. *United States v. Smith*, ACM No. 40782 - The record of trial consists of one seven-volume electronic ROT, with sixteen Prosecution Exhibits, two Court Exhibits, twenty-two Defense Exhibits, and fifty-two Appellate Exhibits. The transcript is 595 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.
12. *United States v. Harrington*, ACM No. 39825 (reh) – The record of trial consists of eleven volumes and the trial transcript has 1159 pages, with thirty-one prosecution exhibits, thirteen defense exhibits, eighty-two appellate exhibits, and one court exhibit. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been

provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,

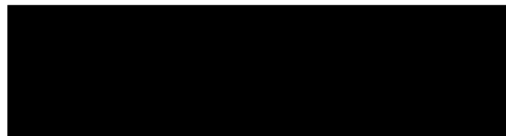


JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel



CERTIFICATE OF FILING AND SERVICE

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JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel

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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 1
Staff Sergeant (E-5)	)	
CHRISTOPHER M. TOOLAN,	)	No. ACM 40804
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	30 September 2025

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

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

[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

UNITED STATES,
Appellee,

v.

Staff Sergeant (E-5)
CHRISTOPHER M. TOOLAN,
United States Air Force,
Appellant.

) **APPELLANT’S MOTION**
) **FOR ENLARGEMENT**
) **OF TIME (FIFTH)**
)
) Before Panel No. 1
)
) No. ACM 40804
)
) 20 October 2025

Pursuant to Rule 23.3(m)(1), (4), and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 30 days, which will end on **4 December 2025**.

Appellant's case was docketed with this Court on 8 April 2025. From the date of docketing to the present date, 195 days have elapsed. On the date requested, 240 days will have elapsed since docketing.

From 21 through 22 August 2024, Appellant was tried by a general court-martial consisting of a military judge alone at Royal Air Force Lakenheath, United Kingdom. R. at 21, 35-26, 398; Entry of Judgment (EOJ). Appellant was convicted, consistent with his pleas of one charge and seven specifications of sexual abuse of a child, in violation of Article 120b, Uniform Code of Military Justice (UCMJ); and one charge and three specifications of production and possession of child pornography, in violation of Article 134, UCMJ. R. at 40, 259; Appellate Exhibit XXXII; EOJ. Pursuant to a plea agreement, three specifications of sexual abuse of a child, in violation of Article 120b, UCMJ, were dismissed with prejudice. R. at 398, Appellate Exhibit XXXII; EOJ.

The military judge sentenced Appellant to a reprimand, reduction in pay grade to Airman Basic (E-1), thirty years confinement, and a dishonorable discharge.¹ R. at 397.

The record of trial consists of seventy-six Prosecution Exhibits, four Court Exhibits, one Defense Exhibit, and thirty-seven Appellate Exhibits; the transcript is 399 pages. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel also provides the following information: Maj Grande is currently assigned twenty-nine cases; twenty-three cases are pending before this Court (eighteen cases are pending AOE's). Eleven cases have priority over the present case:

1. *United States v. Marcoux*, ACM No. 40708- The record of trial consists of twelve volumes, with twenty-nine Prosecution Exhibits, one Court Exhibit, seventeen Defense Exhibits, and eighty-three Appellate Exhibits. The transcript is 1345 pages long. Appellant is currently confined. Undersigned counsel is drafting the AOE in this case.
2. *United States v. Heilig*, ACM No. 40740 - The record of trial consists of one e-ROT with six volumes, three Prosecution Exhibits, eight Defense Exhibits, and six Appellate Exhibits; the transcript is 135 pages long. Appellant is not currently confined. Undersigned counsel has yet completed her review of this case.
3. *United States v. Cunningham*, ACM No. 40746 - The record of trial consists of ten volumes with twelve Prosecution Exhibits, one Court Exhibit, seven Defense Exhibits, and eighty-five Appellate Exhibits. The transcript is 1,249 pages long. Appellant is

¹ Appellant was credited with 657 days of confinement credit. R. at 397.

not currently in military confinement. Undersigned counsel has completed her review of the record for this case.

4. *United States v. See*, ACM No. S32805 - The record of trial consists of one e-ROT with two volumes, three Prosecution Exhibits, two Court Exhibits, six Defense Exhibits, and four Appellate Exhibits; the transcript is 341 pages long. Appellant is not currently confined. Undersigned counsel has not yet completed her review of this case.
5. *United States v. Torres*, ACM No. 40758 - The record of trial consists of one e-ROT with two volumes, four Prosecution Exhibits, one Court Exhibit, five Defense Exhibits, and five Appellate Exhibits; the transcript is 112 pages long. Appellant is not currently confined. Undersigned counsel has completed her review of this case.
6. *United States v. Declue*, ACM No. 40769 – The record of trial consists of one E-ROT consisting of six volumes, with sixteen Prosecution Exhibits, five Defense Exhibits, and fifty Appellate Exhibits. The transcript is 626 pages long. Appellant is currently confined. Undersigned counsel has completed her review of the record for this case.
7. *United States v. Ward*, ACM No. 40749 – The record of trial consists of one e-ROT with eleven volumes, with four Prosecution Exhibits, one Defense Exhibit, and thirty-seven Appellate Exhibits. The transcript is 370 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.
8. *United States v. Echavarria*, ACM No. S32810 - The record of trial consists of one e-ROT with three Prosecution Exhibits, one Defense Exhibit, and four Appellate Exhibits; the transcript is 101 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

9. *United States v. Hepburn*, ACM No. 40778 - The record of trial consists of one e-ROT with five Prosecution Exhibits, seven Defense Exhibits, and thirteen Appellate Exhibits; the transcript is 107 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of this case.
10. *United States v. Smith*, ACM No. 40782 - The record of trial consists of one seven-volume electronic ROT, with sixteen Prosecution Exhibits, two Court Exhibits, twenty-two Defense Exhibits, and fifty-two Appellate Exhibits. The transcript is 595 pages long. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.
11. *United States v. Harrington*, ACM No. 39825 (reh) – The record of trial consists of eleven volumes and the trial transcript has 1159 pages, with thirty-one prosecution exhibits, thirteen defense exhibits, eighty-two appellate exhibits, and one court exhibit. Appellant is currently confined. Undersigned counsel has not yet completed her review of the record for this case.

Through no fault of Appellant, undersigned counsel has been unable to prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to prepare a brief for Appellant's case. Appellant was advised of his right to a timely appeal. Appellant has been provided an update on the status of undersigned counsel's progress on this case. Appellant was advised of the request for this enlargement of time. Appellant provided limited consent to disclose a confidential communication with counsel wherein Appellant consented to the request for this enlargement.

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

Respectfully submitted,

[REDACTED]

JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 20 October 2025.

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JORDAN L. GRANDE, Maj, USAF
Appellate Defense Counsel

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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 1
Staff Sergeant (E-5)	)	
CHRISTOPHER M. TOOLAN,	)	No. ACM 40804
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	21 October 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.

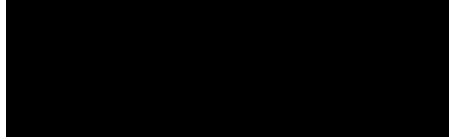
[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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 21 October 2025.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S CONSENT MOTION
	)	TO EXAMINE SEALED
<i>Appellee</i>	)	MATERIAL
v.	)	
	)	Before Panel 1
Staff Sergeant (E-5)	)	
CHRISTOPHER M. TOOLAN,	)	No. ACM 40804
United States Air Force,	)	
<i>Appellant.</i>	)	20 November 2025

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

Pursuant to Rules 3.1(c) and 23.3(f) of this Honorable Court’s Rules of Practice and Procedure and Rule for Courts-Martial 1113(b)(3)(B)(i), *Manual for Courts-Martial, United States* (2024 ed.), Appellant moves for both parties to examine the following sealed material:

Prosecution Exhibits 8, 9, 11, 12, 14–17, 20, 22–60, 62–72, 76

Both parties at trial had access to those sealed exhibits. Trial Tr. 256–57, 282–85.

In accordance with R.C.M. 1113(b)(3)(B)(i), which requires a colorable showing that examination of these matters is reasonably necessary to appellate counsel’s responsibilities, undersigned counsel assert that review of the referenced items is necessary to conduct a complete review of the record of trial and be in a position to advocate competently on behalf of Appellant. As such, examination of these exhibits is reasonably necessary since undersigned counsel cannot fulfill their duties of representation under Article 70, Uniform Code of Military Justice, 10 U.S.C. § 870, without first reviewing the complete record of trial.

Appellate Government Counsel have been consulted about this motion and consent to the relief sought by Appellant.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant this motion.

Respectfully submitted,

[REDACTED]

Dwight H. Sullivan
Appellate Defense Counsel

[REDACTED]

[REDACTED]

Jordan L. Grande, Maj, USAF
Air Force Appellate Defense Counsel

[REDACTED]

Counsel for Appellant

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 20 November 2025.

Respectfully submitted,

[REDACTED]

Dwight H. Sullivan
Appellate Defense Counsel

[REDACTED]

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

UNITED STATES	)	No. ACM 40804
<i>Appellee</i>	)	
	)	
v.	)	
	)	ORDER
Christopher M. TOOLAN	)	
Staff Sergeant (E-5)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	Panel 1

On 20 November 2025, counsel for Appellant submitted a Consent Motion to Examine Sealed Materials. Specifically, Appellant requests counsel for both parties be permitted to examine the following materials sealed by the military judge: Prosecution Exhibits 8, 9, 11, 12, 14-17, 20, 22-60, 62-72, 76. The items were reviewed by trial counsel and trial defense counsel at trial.

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.” R.C.M. 1113(b)(3)(B)(i).

The court has considered Appellant’s motion, the Government’s consent, and this court’s Rules of Practice and Procedure. The court finds Appellant’s counsel has made a colorable showing that review of the sealed materials is necessary to fulfill counsel’s responsibilities.

Accordingly, it is by the court on this 24th day of November, 2025,

ORDERED:

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

Appellate defense counsel and appellate government counsel may view **Prosecution Exhibits 8, 9, 11, 12, 14-17, 20, 22-60, 62-72, 76**.

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

It is further ordered:

No counsel will photocopy, photograph, or otherwise reproduce this material and will not disclose or make available its contents to any other individual without this court's prior written authorization.



FOR THE COURT



JACOB B. HOEFERKAMP, Capt, USAF
Acting Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	BRIEF ON BEHALF OF
<i>Appellee,</i>	)	APPELLANT
	)	
v.	)	
	)	Before Panel 1
Staff Sergeant (E-5)	)	
CHRISTOPHER M. TOOLAN	)	No. ACM 40804
United States Air Force,	)	
<i>Appellant.</i>	)	3 December 2025

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

Assignment of Error

Whether the Government’s failure to docket this case with this Court within the 150-day standard established by *United States v. Livak*, 80 M.J. 631, 633 (A.F. Ct. Crim. App. 2020), warrants a modest, proportionate sentence reduction under this Court’s Article 66(d)(2), Uniform Code of Military Justice, authority.

Statement of the Case

Appellant, Staff Sergeant Christopher M. Toolan, U.S. Air Force, was tried by a general court-martial convened by the Commander, Third Air Force, at Royal Air Force Lakenheath, United Kingdom, on 4 December 2023 and 21 and 22 August 2024. Consistent with Appellant’s pleas, the military judge found him guilty of seven specifications of violating Article 120b of the Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920b, two specifications of violating Article 134, UCMJ, 10 U.S.C. § 934, by producing child pornography, and one specification of violating Article 134, UCMJ, 10 U.S.C. § 934, by possessing child pornography. Trial Tr. 42–43, 259. In accordance with a plea agreement, the Government withdrew and dismissed with prejudice three additional specifications of violating Article 120b, UCMJ, 10 U.S.C. § 920b. Trial Tr. 232, 398; App. Ex. XXXII, ¶ 3. The military judge sentenced Appellant to a reprimand, a dishonorable discharge, and confinement for a total of thirty years. Trial Tr. 397. The convening authority took

no action on the findings or sentence. Convening Authority Decision on Action, *United States v. Staff Sergeant Christopher M. Toolan*, 30 Sep. 2024. The convening authority approved Appellant's requests to defer his reduction in grade and automatic forfeitures until the entry of judgment and waived all automatic forfeitures for the benefit of Appellant's dependents until the soonest of six months, Appellant's release from confinement, or the expiration of Appellant's term of service. *Id.*

Statement of Facts

Appellant was sentenced on 22 August 2024. Trial Tr. 397. The record of trial was docketed with this Court on 8 April 2025, 229 days after the sentence was adjudged. AFCCA Court Docket, <https://afcca.law.af.mil/docket.html> (last visited Nov. 30, 2025).

Argument

The Government's failure to docket this case with this Court within the 150-day standard established by *United States v. Livak*, 80 M.J. 631, 633 (A.F. Ct. Crim. App. 2020), warrants a modest, proportionate sentence reduction under this Court's Article 66(d)(2), UCMJ, authority.

Standard of Review

A Court of Criminal Appeals necessarily considers de novo whether excessive post-trial delay warrants relief under Article 66(d)(2), UCMJ, 10 U.S.C. § 866(d)(2).

Law and Analysis

The Department of the Air Force suffers from an institutional problem of unreasonable delay in providing records of trial to this Court for docketing. Congress has made this Court the guardian of timely court-martial post-trial processing in the Department of the Air Force. Article 66(d)(2), UCMJ, 10 U.S.C. § 866(d)(2). This Court should carry out its congressionally prescribed role by ordering modest, proportionate confinement relief in this case to encourage the Department

of the Air Force to better meet its obligation to ensure that its service members receive timely appellate review of their court-martial convictions.

A. There is a systemic problem of untimely post-trial processing in the Department of the Air Force.

A comparison with the Department of the Navy demonstrates that the Department of the Air Force can do far better to provide its service members with timely appellate review. A Department of the Navy regulation establishes standards for the timely docketing of records of trial. JAG Instruction 5814.1E, Post-Trial Processing (Aug. 19, 2024), *available at* <https://media.defense.gov/2024/Aug/23/2003531447/-1/-1/1/JAGINST%205814.1E.PDF>. That regulation requires that “[i]n all cases ending in conviction, the certified ROT and all required attachments must be completed and transmitted to the Military Justice Administration Division (Code 40) within 135 days of the announcement of sentence.” *Id.* at ¶ 5.t. The case must then be docketed with the Navy-Marine Corps Court of Criminal Appeals “within 15 days of receipt by Code 40 personnel.” *Id.* at ¶ 5.u.(2). That establishes an aggregate 150-day standard—the same aggregate standard this Court established in *United States v. Livak*, 80 M.J. 631, 633 (A.F. Ct. Crim. App. 2020), and has since limited to automatic review cases. *United States v. Boren*, No. ACM 40296 (f rev), 2025 CCA LEXIS 103, at *47 (A.F. Ct. Crim. App. Mar. 19, 2025).

In Fiscal Year 2024 (the most recent year for which statistics are available), the Department of the Navy tried forty percent more general and special courts-martial resulting in conviction compared to the Department of the Air Force.¹ In that same fiscal year, the Department of the

¹ *Compare* Office of the Judge Advocate General, U.S. Navy, U.S. Navy Report on Military Justice for Fiscal Year 2024, at Appx., pt. 2 (31 Dec. 2024) [hereinafter Navy FY24 Art. 146a Report], and Headquarters United States Marine Corps Judge Advocate Division, U.S. Marine Corps

Navy failed to meet the aggregate 150-day post-trial processing standard only *three* times.² One case exceeded that standard by eighty-five days, another by nine days, and a third by four days.³

The Department of the Air Force’s Article 146a report for Fiscal Year 2024 claimed that “[u]nder post-1 January 2019 post-trial processing rules, five cases exceeded the 150-day standard for facially unreasonable delay from sentencing to docketing with AFCCA, articulated by AFCCA pursuant to *United States v. Livak*, 80 M.J. 631 (A.F. Ct. Crim. App. 2020).” Air Force FY24 Art. 146a Report, *supra* note 1, at 5.⁴ In fact, during FY 2024, this Court decided at least one additional case that was docketed in excess of the *Livak* 150-day standard.⁵ Thus, despite handling a far

Report on Military Justice for Fiscal Year 2024, at Appx., pt. 2 (31 Dec. 2024) [hereinafter Marine Corps FY24 Art. 146a Report] (combined total of 300 general and special court-martial convictions), *with* Department of the Air Force, Department of the Air Force Report on the State of Military Justice for Fiscal Year 2024, at Appx., pt. 2 (Jan. 2025) (178 general and special court-martial convictions) [hereinafter Air Force FY24 Art. 146a Report].

² Navy FY24 Art. 146a Report, *supra* note 1, at 2. The Marine Corps report lists those same three cases. Marine Corps FY24 Art. 146a Report, *supra* note 1, at 2.

³ Navy FY24 Art. 146a Report, *supra* note 1, at 2.

⁴ The report cited *United States v. Lampkins*, No. ACM 40135 (f rev), 2023 CCA LEXIS 465 (A.F. Ct. Crim. App. Nov. 2, 2023) (353 days from sentencing to docketing); *United States v. Cook*, No. ACM 40333, 2024 CCA LEXIS 276 (A.F. Ct. Crim. App. July 3, 2024) (200 days from sentencing to docketing); *United States v. Daughma*, No. ACM 40385, 2024 CCA LEXIS 287 (A.F. Ct. Crim. App. July 16, 2024) (151 days from sentencing to docketing); *United States v. Dillon*, No. ACM 40463, 2024 CCA LEXIS 322 (A.F. Ct. Crim. App. Aug. 2, 2024) (228 days from sentencing to docketing); and *United States v. Byrne*, No. ACM 40391, 2024 CCA LEXIS 346 (A.F. Ct. Crim. App. Aug. 22, 2024) (290 days from docketing to sentencing).

⁵ *United States v. Saul*, No. ACM 40341, 2023 CCA LEXIS 546, at *12 n.4 (A.F. Ct. Crim. App. Dec. 29, 2023) (“[W]e note that more than 150 days elapsed between the date Appellant was sentenced and the date his record of trial was docketed with this court. This period constitutes a facially unreasonable post-trial delay.”) (this Court can take judicial notice of its own records to note that *Saul* was docketed on 20 September 2022, 158 days after sentencing), *rev’d in part*, ___ M.J. ___, No. 24-0098, 2025 CAAF LEXIS 578 (C.A.A.F. July 21, 2025). This Court decided one additional case during FY 2024 that was not docketed within 150 days of sentencing, but this Court ordered reconsideration of that decision shortly after the fiscal year ended, perhaps explaining its absence from the report. *United States v. Hennessy*, No. ACM 40439, 2024 CCA LEXIS 343 (A.F. Ct. Crim. App. Aug. 20, 2024) (412 days from sentencing to docketing), *recon. granted*, 2024 CCA LEXIS 494 (A.F. Ct. Crim. App. Oct. 9, 2024), *rev’d on recon.*, 2024 CCA LEXIS 503 (A.F. Ct. Crim. App. Nov. 25, 2024), *certificate for rev. filed*, 85 M.J. 396 (C.A.A.F. 2025).

smaller caseload than the Department of the Navy, the Department of the Air Force had twice the number of untimely docketed cases in Fiscal Year 2024.

Since the end of Fiscal Year 2024, the number of untimely cases in the Department of the Air Force has exploded. In the twelve months before this brief was filed, considering just automatic review cases, this Court decided at least twenty cases that were docketed in excess of the *Livak* 150-day standard.⁶

⁶ *United States v. Trovatore*, No. ACM 40505, 2024 CCA LEXIS 519 (A.F. Ct. Crim. App. Dec. 9, 2024) (this Court can take judicial notice of its own records to note that this case was docketed on 8 August 2023, 154 days after sentencing); *United States v. Atencio*, No. ACM S32783 (A.F. Ct. Crim. App. Dec. 20, 2024) (166 days from sentencing to docketing); *United States v. Cadavona*, No. ACM 40476, 2025 CCA LEXIS 17 (A.F. Ct. Crim. App. Jan. 16, 2025) (224 days from sentencing to docketing), *aff'd*, __ M.J. __, No. 25-0114/AF, 2025 CAAF LEXIS 604 (C.A.A.F. July 22, 2025); *United States v. Floyd*, No. ACM S32784, 2025 CCA LEXIS 31 (A.F. Ct. Crim. App. Feb. 3, 2025) (155 days from sentencing to docketing), *petition denied*, __ M.J. __, No. 25-0126/AF, 2025 CAAF LEXIS 345 (C.A.A.F. May 6, 2025), *cert. denied*, 223 L. Ed. 2d 66 (2025); *United States v. Covitz*, No. ACM 40193 (reh), 2025 CCA LEXIS 105 (A.F. Ct. Crim. App. Mar. 19, 2025) (155 days from sentencing to docketing), *petition denied*, __ M.J. __, No. 25-0169/AF, 2025 CAAF LEXIS 538 (C.A.A.F. July 8, 2025); *United States v. Jenkins*, No. ACM S32765, 2025 CCA LEXIS 148 (A.F. Ct. Crim. App. Apr. 7, 2025) (154 days from sentencing to docketing), *petition denied*, __ M.J. __, No. 25-0180/AF, 2025 CAAF LEXIS 676 (C.A.A.F. Aug. 15, 2025); *United States v. York*, No. ACM 40604, 2025 CCA LEXIS 184 (A.F. Ct. Crim. App. Apr. 30, 2025) (173 days from sentencing to docketing), *petition denied*, __ M.J. __, No. 25-0200/AF, 2025 CAAF LEXIS 670 (C.A.A.F. Aug. 11, 2025); *United States v. Johnson*, No. ACM 40537, 2025 CCA LEXIS 193 (A.F. Ct. Crim. App. May 2, 2025) (196 days from sentencing to docketing), *petition granted*, __ M.J. __, No. 25-0202/AF, 2025 CAAF LEXIS 716 (C.A.A.F. Aug. 26, 2025); *United States v. Hagen*, No. ACM 40561, 2025 CCA LEXIS 234 (A.F. Ct. Crim. App. May 28, 2025) (183 days from sentencing to docketing), *petition denied*, __ M.J. __, No. 25-0224/AF, 2025 CAAF LEXIS 841 (C.A.A.F. Oct. 6, 2025), *cert. petition filed sub nom., Baumgartner v. United States*, No. 25-599 (filed Nov. 13, 2025); *United States v. Ryder*, No. ACM 40605, 2025 CCA LEXIS 283 (A.F. Ct. Crim. App. June 25, 2025) (369 days from sentencing to docketing); *United States v. Blair*, No. ACM S32778, 2025 CCA LEXIS 341 (A.F. Ct. Crim. App. July 28, 2025) (175 days from sentencing to docketing), *petition denied*, __ M.J. __, No. 25-0271/AF, 2025 CAAF LEXIS 899 (C.A.A.F. Oct. 27, 2025); *United States v. Tompkins*, No. ACM 40619, 2025 CCA LEXIS 359 (A.F. Ct. Crim. App. Aug. 1, 2025) (per curiam) (155 days from sentencing to docketing), *petition denied*, __ M.J. __, No. 25-0278/AF, 2025 CAAF LEXIS 878 (C.A.A.F. Oct. 21, 2025); *United States v. Slayton*, No. ACM 40583, 2025 CCA LEXIS 427 (A.F.

As this Court has observed, the 150-day standard “is not, by any means, a particularly onerous processing goal.” *Covitz*, 2025 CCA LEXIS 105, at *38 (quoting *United States v. Gay*, 74 M.J. 736, 744 (A.F. Ct. Crim. App. 2015), *aff’d*, 75 M.J. 264 (C.A.A.F. 2016)). Yet the Department of the Air Force continuously fails to meet that non-onerous standard. There is no reason Airmen and Guardians should receive less protection of their right to timely appellate review than their naval counterparts. Yet exactly that is happening. This Court should take appropriate steps to incentivize the Department of the Air Force to bring its post-trial processing success rate in line with that of the Department of the Navy. Granting modest, proportionate sentence relief in this case would be an important step in achieving that goal.

B. This Court has the authority and a congressional mandate to incentivize the Department of the Air Force to correct its deficient post-trial processing.

A standard that is unenforced is not really a standard at all. This Court should let the Government know that failure to meet the *Livak* standard in automatic review cases will have consequences. This Court has the statutory power to “provide appropriate relief if the accused demonstrates . . . excessive delay in the processing of the court-martial after the judgment was

Ct. Crim. App. Sep. 8, 2025) (203 days from sentencing to docketing), *recon. and recon. en banc denied* (A.F. Ct. Crim. App. Oct. 30, 2025); *United States v. Casillas*, No. ACM 40551, 2025 CCA LEXIS 445 (A.F. Ct. Crim. App. Sep. 18, 2025) (174 days from sentencing to docketing); *United States v. Roberts*, No. ACM 40608, 2025 CCA LEXIS 476 (A.F. Ct. Crim. App. Sep. 30, 2025) (205 days from sentencing to docketing), *petition filed*, __ M.J. __, No. 26-0044/AF (C.A.A.F. Nov. 26, 2025); *United States v. Myslow*, No. ACM 40668, 2025 CCA LEXIS 473 (A.F. Ct. Crim. App. Oct. 10, 2025) (163 days from sentencing to docketing); *United States v. Keilberg*, No. ACM 40601, 2025 CCA LEXIS 481 (A.F. Ct. Crim. App. Oct. 22, 2025) (185 days from sentencing to docketing); *United States v. Martinez*, No. ACM 39903(reh)(f rev), 2025 CCA LEXIS 494 (A.F. Ct. Crim. App. Oct. 31, 2025); *United States v. Evangelista*, No. ACM 40531, 2025 CCA LEXIS 501 (A.F. Ct. Crim. App. Nov. 5, 2025) (this Court can take judicial notice of its own records to note that this case was docketed on 14 November 2023, 179 days after sentencing); *United States v. Howard*, No. ACM 40478 (f rev), 2025 CCA LEXIS 537 (A.F. Ct. Crim. App. Nov. 21, 2025) (223 days from sentencing to docketing of incomplete record of trial).

entered into the record.” Article 66(d)(2), UCMJ, 10 U.S.C. § 866(d)(2). Appellant does not allege that the delay thus far has violated his constitutional due process right to timely appeal. Rather, Appellant seeks relief under this Court’s express statutory authority to grant “appropriate relief” for excessive post-trial delay.

This Court has identified non-exhaustive factors it considers when deciding whether relief for post-trial delay is appropriate. *Gay*, 74 M.J. at 744. Two of the factors ask, “Is there any evidence of institutional neglect concerning timely post-trial processing, either across the service or at a particular installation?” and “Given the passage of time, can this court provide meaningful relief in this particular situation?” *United States v. Valentin-Andino*, No. ACM 40185 (f rev), 2024 CCA LEXIS 223, at *14–15 (A.F. Ct. Crim. App. June 7, 2024) (quoting *Gay*, 74 M.J. at 744), *aff’d on other grounds*, 85 M.J. 361 (C.A.A.F. 2025). Here, those factors favor a modest, proportionate reduction in Appellant’s confinement to address the presumptively unreasonable post-trial delay.

As this brief demonstrates above, facially unreasonable post-trial delay is all-too-common in Air Force military justice practice. Nor is this a new phenomenon. More than a year ago, this Court observed that it has had to “grapple with a series of cases involving post-trial delay at various stages, all of which raise serious questions as to the scope of potential institutional neglect within the Air Force, particularly when it comes to timely and accurate assembly of records of trial and forwarding of verbatim trial transcripts.” *United States v. Cassaberry-Folks*, No. ACM 40444, 2024 CCA LEXIS 500, at *43 (A.F. Ct. Crim. App. Nov. 22, 2024). The presumptively unreasonable delay in this case occurred after this Court made that observation in *Cassaberry-Folks*. Thus, there is compelling “evidence of institutional neglect . . . across the service.” *Valentin-Andino*, 2024 CCA LEXIS 223, at *14. Additionally, given the length of Appellant’s

confinement, a modest and proportionate reduction in the sentence can “provide meaningful relief in this particular situation” despite “the passage of time.” *Id.* at *15.

Conclusion

“Excellence In All We Do” is an Air Force core value. AIR FORCE HANDBOOK 1, AIRMAN, ¶ 1.3.3 (15 Feb. 2025). By any objective measure, post-trial processing of Air Force courts-martial has often fallen short of that standard. It has certainly fallen far short of what the Department of the Navy has demonstrated is possible. By signaling its unwillingness to tolerate further instances of unreasonable appellate delay, this Court would incentivize greater institutional vigilance. Accordingly, this Court should order the appropriate, proportionate remedy of decreasing Appellant’s confinement by the same number of days the Government exceeded the 150-day standard for docketing: seventy-nine.

This Court should, therefore, order that Appellant receive an additional seventy-nine days of confinement credit.

Respectfully submitted,



Dwight H. Sullivan
Appellate Defense Counsel



JORDAN L. GRANDE, Maj, USAF
Air Force Appellate Defense Counsel



Counsel for Appellant

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 3 December 2025.

Respectfully submitted,

A solid black rectangular box used to redact the signature of Dwight H. Sullivan.

Dwight H. Sullivan
Air Force Appellate Defense Division

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	UNITED STATES’ ANSWER TO ASSIGNMENT OF ERROR
	)	
v.	)	Before Panel No. 1
	)	
Staff Sergeant (E-5)	)	No. ACM 40804
CHRISTOPHER M. TOOLAN, USAF,	)	
<i>Appellant.</i>	)	30 December 2025

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

ASSIGNMENT OF ERROR

**WHETHER THE GOVERNMENT’S FAILURE TO DOCKET
THIS CASE WITH THIS COURT WITHIN THE 150-DAY
STANDARD ESTABLISHED BY UNITED STATES V.
LIVAK, 80 M.J. 631, 633 (A.F. CT. CRIM. APP. 2020),
WARRANTS A MODEST, PROPORTIONATE SENTENCE
REDUCTION UNDER THIS COURT’S ARTICLE 66(D)(2),
UNIFORM CODE OF MILITARY JUSTICE, AUTHORITY.**

STATEMENT OF CASE

The United States accepts Appellant’s statement of the case.

STATEMENT OF FACTS

On 22 August 2024, consistent with Appellant’s guilty plea agreement with the United States, the military judge found Appellant guilty of rape of two children under 12 years of age and five lewd acts upon two children under 16 years of age in Charge I, in violation of Article 120b of the Uniform Code of Military Justice (UCMJ); and of two specifications of producing child pornography and one specification of possessing child pornography in Charge II, in violation of Article 134, UCMJ. (*Charge Sheet*; R. at 42–43, 259; App. Ex. XXXII, para. 3.) The military judge sentenced Appellant to a reprimand, a dishonorable discharge, and confinement for a total of thirty years. (R. at 397.)

The 11 and 27 February 2025 Moreno chronologies from the base legal office demonstrate the Government consistently performed work on Appellant's post-trial processing. (ROT, Vol. 1, pp. 1794-97, 1800-01.) Within five business days after trial concluded, the Statement of Trial Results (STR) was signed and distributed on 29 August 2024. (Id. at 1794.) In September 2024, Appellant submitted matters to the convening authority, the legal office started redacting court documents, the Convening Authority Decision on Action Memorandum (CADAM) was issued, the Entry of Judgment (EOJ) was drafted and routed for review. (Id.) In October 2024, Appellant was transferred to Fort Leavenworth, the EOJ continued routing, the legal office continued redacting the record of trial (ROT), the corrected EOJ was finalized and routed in accordance with the distribution checklist, and the court reporter certified the record of trial. (Id. at 1795.) In November 2024, the base legal office's case paralegal compiled the ROT, and the law office supervisor reviewed it. (Id. at 1795-96.) In December 2024, the finalized ROT was distributed, and the case paralegal assembled the eROT and provided it to the non-commissioned officer in charge for review. (Id. at 1796.) In January 2025, the base legal office posted the eROT to the numbered air force legal (NAF) office Sharepoint site for review, and the case paralegal incorporated the NAF's edits. (Id.) In February 2025, the base legal office served Appellant with the finalized ROT, and it finalized the eROT. (Id. at 1797.) The ROT contains 3,661 pages and numerous videos and photographs. Because of Appellant's multiple victims and his crimes involving child pornography, extensive redactions were required. The 13 February 2025 *Moreno* chronology from the numbered Air Force legal office shows they exercised similar diligence to the base legal office. (Id. at 1798-99.)

The record of trial was docketed with this Court on 8 April 2025, 229 days after the sentence was adjudged. (AFCCA Court Docket, <https://afcca.law.af.mil/docket.html>; last visited 8 December 2025.)

Since docketing, Appellant moved for, and obtained, over the United States' objections, five extensions of time until he submitted his Assignment of Error on 3 December 2025.

ARGUMENT

APPELLANT WAS NOT SUBJECTED TO UNREASONABLE AND UNEXPLAINED DELAY IN POST-TRIAL PROCESSING, SO NO SENTENCE REDUCTION IS NECESSARY OR APPROPRIATE.

Standard of Review

This Court reviews *de novo* an appellant's entitlements to relief for post-trial delay. United States v. Livak, 80 M.J. 631, 633 (A.F. Ct. Crim. App. 2020) (citing United States v. Moreno, 63 M.J. 129, 135 (C.A.A.F. 2006)).

Law

This Court has established a rule that post-trial delay of more than 150 days from sentencing is presumptively unreasonable. Livak, 80 M.J. at 633. In those cases, when reviewing claims of unreasonable post-trial delay, this Court would evaluate (1) the length of the delay; (2) the reasons for the delay; (3) the appellant's assertion of the right of timely review and appeal; and (4) prejudice. Moreno, 63 M.J. at 135 (citing Barker v. Wingo, 407 U.S. 514, 530 (1972)). All four factors were considered together and "[n]o single factor is required for finding a due process violation and the absence of a given factor will not prevent such a finding." Id. at 136.

CAAF has recognized three interests that should be considered when determining prejudice due to post-trial delay: (1) prevention of oppressive incarceration pending appeal; (2) undue anxiety and concern; and (3) limiting the possibility that a convicted person's grounds for appeal

and defenses, in case of retrial, might be impaired. Moreno, 63 M.J. at 138-40 (citing Barker, 407 U.S. at 532). “Of those, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system.” Id. “The anxiety and concern subfactor involves constitutionally cognizable anxiety that arises from excessive delay and we ‘require an appellant to show particularized anxiety or concern that is distinguishable from the normal anxiety experienced by prisoners awaiting an appellate decision.’” United States v. Toohey, 63 M.J. 353, 361 (C.A.A.F. 2006) (citing Moreno, 63 M.J. at 140).

To find a due process violation when there is no prejudice under the fourth Barker factor, a court would need to find that, “in balancing the other three factors, the delay is so egregious that tolerating it would adversely affect the public’s perception of the fairness and integrity of the military justice system.” Toohey, 63 M.J. at 362.

“In the absence of a due process violation, this court considers whether relief for excessive post-trial delay is warranted consistent with this court’s authority under Article 66(d), UCMJ.” Livak, 80 M.J. at 632; *see also* United States v. Valentin-Andino, 85 M.J. 361, 364 (C.A.A.F. 2025). If this Court decides relief is warranted for excessive post-trial delay under Article 66(d)(2), UCMJ, “that relief must be ‘appropriate,’ meaning it must be suitable considering the facts and circumstances surrounding that case.” Valentin-Andino, 85 M.J. at 367.

Analysis

Appellant claims he is entitled to a 79-day reduction from his 30-year sentence, based on the number of days the post-trial processing of his case exceeded 150 days. (App. Br. at 8.) Under Moreno, Livak, Toohey, Valentin-Andino, and Article 66(d)(2), UCMJ, Appellant’s assignment of error is without merit.

1. Appellant did not suffer, nor did he allege he suffered, prejudice or a due process violation

Because the appellate delay exceeded 150 days, there is a facially unreasonable delay. However, Appellant does not assert, and the evidence does not establish, a due process violation under Barker. There are reasonable explanations for the delay in the Moreno chronologies. (ROT, Vol. 1, pp.1794-1801.) Appellant never asserted his right to speedy post-trial processing. And Appellant suffered no prejudice, oppressive incarceration, or particularized anxiety or concern caused by the appellate delay.

To find a due process violation where there is no prejudice, this Court would need to find that, “in balancing the other three factors, the delay is so egregious that tolerating it would adversely affect the public’s perception of the fairness of the military justice system.” Toohy, 63 M.J. at 362. This Court should conclude that the delay in Appellant’s case was not so egregious as to impugn the fairness and integrity of the military justice system. It did not involve years of post-trial delay like in Moreno or Toohy, that is, over four years and six years, respectively. Furthermore, “there is no indication of bad faith on the part of any of the Government actors,” and Appellant makes no such allegation. United States v. Anderson, 82 M.J. 82, 88 (C.A.A.F. 2022).

Regarding the other Barker factors, Appellant’s Brief does not analyze the processing of the extensive record of trial in his own case. He fails to acknowledge the consistent forward motion by the legal office, the 3,661 pages in his record of trial, or the need for redactions related to his minor victims. Importantly, Appellant does not identify any period of delay in post-trial processing with which he takes issue. Therefore, the Court should consider cases with similar or worse delays that resulted in no relief to appellants. *See, e.g.,* United States v. Anderson, 82 M.J. 82, 86 (C.A.A.F. 2022) (481 days); United States v. Byrne, No. ACM 40391, 2024 CCA LEXIS 346, *50 (A.F. Ct. Crim. App. 22 August 2024) (unpub. op.) (290 days); United States v. Gardner,

No. ACM 39929, 2021 CCA LEXIS 604, *70-74 (A.F. Ct. Crim. App. 16 November 2021) (unpub. op.) (281 days); United States v. Dillon, No. ACM 40463, 2024 CCA LEXIS 322, *2 (A.F. Ct. Crim. App. 2 August 2024) (unpub. op.) (228 days).

Additionally, Appellant requested five enlargements of time, which resulted in an additional 179 days of delay from docketing until he filed his assignments of error, which had no substantive claims. Therefore, Appellant was not prejudiced nor was the delay so egregious as to “adversely affect the public’s perception of the fairness of the military justice system.” Toohy, 63 M.J. at 362.

2. Appellant is not entitled to Article 66(d)(2) relief; there was no institutional neglect

Appellant is not entitled to relief under Article 66(d)(2). The length of delay did not exceed the 150-day standard substantially. Further, the Moreno chronologies demonstrates that the government pressed forward with post-trial processing consistently and in good faith, despite a lengthy record of trial that required extensive redactions. Appellant does not and cannot argue there was any harm from the delay or that the delay lessened the disciplinary effect of any particular aspect of the sentence. And relief in the form of reducing a 30-year sentence by 79 days is not consistent with the dual goals of justice and good order and discipline, where Appellant committed heinous crimes against multiple children, and such a *de minimus* reduction would not be meaningful in any event.

Appellant’s sole argument -- that there is evidence of institutional neglect concerning timely post-trial processing -- is not supported by any evidence, and his comparison of the Air Force to the Navy is without merit. (App. Br. at 2-5.) Although this Court has raised a concern about “institutional neglect” in the context of errors in ROTs that cause delays in appellate review -- see United States v. Valentin-Andino, No. ACM 40185 (f rev), 2024 CCA LEXIS 223, at *17-

19 (A.F. Ct. Crim. App. 7 June 2024) (unpub. op.), *aff'd*, 85 M.J. 361 (C.A.A.F. 31 March 2025); United States v. Cassaberry-Folks, No. ACM 40444, 2024 CCA LEXIS 500, at *43 (A.F. Ct. Crim. App. 22 November 2024) -- Appellant's case here does not involve errors in the record of trial. In fact, this Court most recently, and post-Valentin-Andino, rejected the argument of "institutional neglect" in the Air Force's post-trial processing in United States v. Martinez, No. ACM 39903 (reh) (f rev), 2025 CCA LEXIS 494 (A.F. Ct. Crim. App. 31 October 2025), even though the appellate delay was 324 days and the case involved ROT errors requiring remand. *Id.* at *42-43. Similarly, the Court rejected the notion of institutional neglect in United States v. Keilberg, No. ACM 40601, 2025 CCA LEXIS 481, *9 (A.F. Ct. Crim. App. 22 October 2025), where there were 185 days of delay from trial to docketing and ROT errors, and even more recently, in United States v. Cabrie, No. ACM 40615, 2025 CCA LEXIS 552, *15 (A.F. Ct. Crim. App. 3 December 2025), where there were 179 days of post-trial processing delay.

In Appellant's case, the delay was not egregious, and the government demonstrated no bad faith or gross indifference to the overall processing of his case. As discussed above, Appellant does not argue he has been prejudiced in any way. The delay has not lessened the disciplinary effect of the sentence, and providing Appellant's requested relief would undermine the goals of good order and discipline. Appellant was found guilty of several sex crimes against children. This is not a case in which the Court should provide the last recourse of relief under Article 66(d), UCMJ. This Court should reject Appellant's assignment of error.

CONCLUSION

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



STEVEN R. KAUFMAN
Appellate Government Counsel

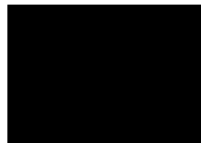


MARY ELLEN PAYNE
Associate Chief
Government Trial and Appellate Operations Division



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 (Mr. Dwight H. Sullivan and Maj Jordan L. Grande) on 30 December 2025.



STEVEN R. KAUFMAN
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S REPLY BRIEF
<i>Appellee,</i>	)	
	)	
v.	)	
	)	Before Panel 1
Staff Sergeant (E-5)	)	
CHRISTOPER M. TOOLAN	)	No. ACM 40804
United States Air Force,	)	
<i>Appellant.</i>	)	6 January 2026

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

Pursuant to Rule 18(d)(1) of the Joint Rules of Appellate Procedure for Courts of Criminal Appeals, Appellant replies to the United States’ answer filed on 30 December 2025 (hereinafter Government’s Brief).

Introduction

The Government’s Brief demonstrates the importance of this Court providing modest, proportionate relief for the presumptively unreasonable post-trial delay in this case. The Government seems to believe that unless this Court orders relief, delay in excess of the 150-day standard established by *United States v. Livak*, 80 M.J. 631, 633 (A.F. Ct. Crim. App. 2020), is acceptable. *See* Government’s Brief at 5–6. That attitude helps to explain the institutional problem of unreasonable delay in providing records of trial to this Court for docketing, as demonstrated in Appellant’s opening brief. *See* Brief on Behalf of Appellant at 5 (documenting twenty automatic appeal cases this Court decided over the twelve-month period preceding the brief’s filing that were docketed in excess of the *Livak* 150-day standard). On the very day Appellant filed his opening brief, this Court decided another automatic appeal case that had been docketed in excess of the *Livak* 150-day standard. *United States v. Cabrie*, No. ACM 40615, 2025 CCA LEXIS 552, at *14 (A.F. Ct. Crim. App. Dec. 3, 2025) (docketed 176 days after

sentencing). Twenty days later, this Court decided another such case. *United States v. Thompson*, No. ACM S32816, 2025 CCA LEXIS 583, at *1 n.1 (A.F. Ct. Crim. App. Dec. 23, 2025) (per curiam) (docketed 192 days after sentencing). Eight days later, this Court granted a motion to withdraw from appellate review in still another automatic appeal case that had been docketed in excess of the 150-day *Livak* standard. *United States v. Richins*, No. ACM S32817, 2025 CCA LEXIS 585 (A.F. Ct. Crim. App. Dec. 31, 2025) (order).¹ As *Richins* demonstrates, some cases that violate the *Livak* standard do not result in opinions noting the violation; the problem may, therefore, be even worse than it already appears.²

Congress anointed this Court as the guardian of timely post-trial processing in the Department of the Air Force. Uniform Code of Military Justice (UCMJ) art. 66(d)(2), 10 U.S.C. § 866(d)(2). The Government’s Brief makes clear that unless this Court orders appropriate relief for presumptively unreasonable post-trial delay, the Department of the Air Force will remain indifferent to its woefully sluggish post-trial processing.

¹ This Court can take judicial notice of its own records to note that Senior Airman Richins was sentenced on 17 October 2024 and his case was docketed with this Court 161 days later, on 27 March 2025. *See United States v. Lovett*, 23 C.M.R. 168, 172 (C.M.A. 1957) (“An appellate court . . . can take judicial notice of its own records.”).

² The *Richins* case highlights a difference between the method that the Department of the Navy’s and Department of the Air Force’s Fiscal Year 2024 annual military justice reports used to calculate the number of untimely docketed cases. The Office of the Judge Advocate General of the Navy’s and Marine Corps Judge Advocate Division’s reports make clear that they provide a count of the number of cases docketed in excess of the 150-day standard during Fiscal Year 2024. Office of the Judge Advocate General, U.S. Navy, U.S. Navy Report on Military Justice for Fiscal Year 2024, at 2 (31 Dec. 2024) [hereinafter Navy FY24 Art. 146a Report]; Headquarters United States Marine Corps Judge Advocate Division, Report on Military Justice for Fiscal Year 2024, at 2 (31 Dec. 2024) [hereinafter Marine Corps FY24 Art. 146a Report]. The Department of the Air Force report, on the other hand, counted up the number of cases this Court decided that indicated a *Livak* violation (while omitting one). *See* Brief on Behalf of Appellant at 4 (citing Department of the Air Force Report on the State of Military Justice for Fiscal Year 2024, at 5 (Jan. 2025)). The Department of the Navy’s approach is the more sound, reflecting its greater institutional vigilance to ensuring timely post-trial processing.

A. The Department of the Navy’s post-trial processing performance is a compelling indicator of the Department of the Air Force’s institutional neglect.

Appellant’s opening brief contrasted the post-trial processing performance of the Department of the Navy with that of the Department of the Air Force. Brief on Behalf of Appellant at 3–5. In Fiscal Year 2024, only three cases were docketed with the Navy-Marine Corps Court of Criminal Appeals more than 150 days after sentencing.³ Yet, despite the Department of the Air Force trying forty percent fewer special and general courts-martial resulting in a conviction, this Court decided at least six automatic appeal cases during Fiscal Year 2024 that were not docketed within 150 days of sentencing. *Id.* at 4–5. As Appellant’s opening brief demonstrated, such dilatory docketing became even worse in the Department of the Air Force in Fiscal Year 2025. *Id.* at 5–6.

The Department of the Navy’s post-trial processing record demonstrates that through the application of institutional vigilance, a much greater success rate is possible. The Department of the Air Force’s post-trial processing deficiencies are not inevitable; they result from a lack of will to do better.

The Government’s brief proclaims, without explanation, that Appellant’s “comparison of the Air Force to the Navy is without merit.” Government’s Brief at 6.⁴ On the contrary, that

³ Brief on Behalf of Appellant at 4 (citing Navy FY24 Art. 146a Report, *supra* note 2, at 2 and Marine Corps FY24 Art. 146a Report, *supra* note 2, at 2).

⁴ Appellant’s brief did not compare “the Air Force to the Navy,” as the Government’s Brief claims. *See* 10 U.S.C. § 8001(a)(1) (“The term ‘Navy’ means the United States Navy.”). The statistics Appellant’s opening brief provided were for the Department of the Navy, which includes both the Navy and the Marine Corps. *See* 10 U.S.C. § 8061. The three untimely docketed cases during Fiscal Year 2024 were the total for the Navy and Marine Corps combined.

comparison demonstrates the Department of the Air Force’s lack of institutional commitment to timely post-trial processing.

B. The Government’s Brief exudes institutional indifference to dilatory post-trial processing.

Appellant’s case was docketed with this Court 229 days after sentencing. *Compare* Trial Tr. 397 (sentencing on 22 Aug. 2024), with AFCCA Court Docket, <https://afcca.law.af.mil/docket.html> (last visited Jan. 6, 2026) (docketing on 8 Apr. 2025). Thus, this case’s post-trial processing time exceeded the *Livak* standard by more than fifty percent.

The Government’s assertion that Appellant’s claim of “institutional neglect concerning timely post-trial processing . . . is not supported by any evidence” overlooks the extreme increase in violations of the *Livak* 150-day standard during Fiscal Year 2025 and thus far during Fiscal Year 2026. *Contrast* Government’s Brief at 6 (bold omitted), *with* Brief on Behalf of Appellant at 5–6 (documenting twenty automatic appeal cases decided by this Court between 9 December 2024 and 21 November 2025 in which the *Livak* standard was violated); *supra* at 1–2 (documenting three automatic appeal cases disposed of by this Court between 3 and 31 December 2025 in which the *Livak* standard was violated). The Government’s argument that the Department of the Air Force’s dreadful post-trial processing record does not constitute evidence of institutional neglect is another sign of institutional indifference. The Government also argues that this Court has not yet found institutional neglect arising from derelict post-trial processing. Government’s Brief at 6–7. Yet the aggregation of case after case of *Livak* violations now establishes such institutional neglect. The camel’s back is broken.

The Government merely highlights the need for consequences for deficient performance when it points to “cases with similar or worse delays that resulted in no relief to appellants.” Government’s Brief at 5. This Court should reject the Government’s suggestion that because it

got away with doing an even poorer job of meeting its post-trial processing obligations in some other cases, it should be let off the hook in this case. That argument demonstrates that earlier instances in which violations resulted in no relief have emboldened the Government in its disregard of the *Livak* standard. That makes relief in this case *more* appropriate, not less. As Appellant’s opening brief and this reply brief have demonstrated, the problem of unreasonable post-trial delay in the Department of the Air Force worsened significantly in Fiscal Year 2025 and thus far in Fiscal Year 2026. Relief is therefore more urgent now.

C. A seventy-nine-day confinement credit would be both proportionate and meaningful.

The Government’s Brief errs by stating, “Appellant claims he is entitled to a 79-day reduction from his 30-year sentence, based on the number of days the post-trial processing of his case exceeded 150 days.” Government’s Brief at 4 (citing Appellant’s Brief at 8). Appellant made no such claim of entitlement. This Court exercises discretionary authority when applying Article 66(d)(2), UCMJ. Rather than claiming entitlement to seventy-nine days of confinement credit, Appellant suggests that it would be appropriate for this Court to award such a modest, proportionate reduction in his sentence, which would represent less than three-quarters of one percent of Appellant’s period of confinement.

One factor this Court has traditionally considered in deciding whether to grant relief for unreasonable post-trial delay where (as here) there is no claim of a due process violation or prejudice is whether, “[g]iven the passage of time,” this Court can still “provide meaningful relief.” *United States v. Valentin-Andino*, No. ACM 40185 (f rev), 2024 CCA LEXIS 223, at *14–15 (A.F. Ct. Crim. App. June 7, 2024) (quoting *United States v. Gay*, 74 M.J. 736, 744 (A.F. Ct. Crim. App. 2015), *aff’d*, 75 M.J. 264 (C.A.A.F. 2016)), *aff’d on other grounds*, 85 M.J. 361

(C.A.A.F. 2025). Here, the length of Appellant’s confinement provides an opportunity to award such meaningful, yet modest and proportionate, relief.

Seeking to make a vice out of the requested relief’s very modesty, the Government argues that “such a *de minimus* reduction would not be meaningful in any event.” Government’s Brief at 6. The Government demonstrates a remarkably cavalier attitude toward the liberty of a United States citizen. While a seventy-nine-day credit against 10,957 days (including leap days) of confinement is certainly modest, seventy-nine days of freedom is even more certainly meaningful.

After belittling the meaningfulness of seventy-nine days of liberty, the Government’s Brief inconsistently claims that the requested confinement credit would somehow “undermine the goals of good order and discipline.” *Contrast id.* at 6, *with id.* at 7. The Government leaves unexplained how a sentence of a dishonorable discharge, a reprimand, and confinement for 10,878 days instead of a dishonorable discharge, a reprimand, and confinement for 10,957 days would undermine good order and discipline. It would not.

For the foregoing reasons, as well as those set out in Appellant’s opening brief, this Court should exercise its Article 66(d)(2) authority to order a seventy-nine-day confinement credit.

Respectfully submitted,

[REDACTED]

Dwight H. Sullivan
Appellate Defense Counsel

[REDACTED]

[REDACTED]

Jordan L. Grande, Maj, USAF
Air Force Appellate Defense Counsel

[REDACTED]

Counsel for Appellant

CERTIFICATE OF FILING AND SERVICE

I certify that the foregoing was sent via email to the Court and served on the Government Trial and Appellate Operations Division on 6 January 2026.

Respectfully submitted,

[REDACTED]

Dwight H. Sullivan
Air Force Appellate Defense Division

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

UNITED STATES	)	No. ACM 40804
<i>Appellee</i>	)	
	)	
v.	)	
	)	
Christopher M. TOOLAN	)	NOTICE OF
Staff Sergeant (E-5)	)	PANEL CHANGE
U.S. Air Force	)	
<i>Appellant</i>	)	

It is by the court on this 12th day of January, 2026,

ORDERED:

The record of trial in the above styled matter is withdrawn from Panel 1 and referred to a Special Panel for appellate review.

The Special Panel in this matter shall be constituted as follows:

GRUEN, PATRICIA A., Colonel, Senior Appellate Military Judge

ORTIZ, ANTHONY D., Colonel, Appellate Military Judge

MORGAN, CHRISTOPHER S., Colonel, Appellate Military Judge

This panel letter supersedes all previous panel assignments.



FOR THE COURT



TANICA S. BAGMON
Appellate Court Paralegal