

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (FIRST)</b>
	)	
v.	)	Before Panel No. 3
	)	
Senior Airman (SrA)	)	No. ACM 40502
<b>FRANKLIN A.T. RICE,</b>	)	
United States Air Force	)	29 September 2023
<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 his first enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **6 December 2023**. The record of trial was docketed with this Court on 8 August 2023. From the date of docketing to the present date, 52 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,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 29 September 2023.

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

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

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Senior Airman (E-4)	)	ACM 40502
FRANKLIN A.T. RICE, USAF,	)	
<i>Appellant.</i>	)	Panel No. 3
	)	

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

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

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

PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 3 October 2023.

PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (SECOND)</b>
	)	
v.	)	Before Panel No. 3
	)	
Senior Airman (SrA)	)	No. ACM 40502
<b>FRANKLIN A.T. RICE,</b>	)	
United States Air Force	)	29 November 2023
<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 his second enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **5 January 2024**. The record of trial was docketed with this Court on 8 August 2023. From the date of docketing to the present date, 113 days have elapsed. On the date requested, 150 days will have elapsed.

On 15 December 2022, 21-22 March 2023, and 18-19 April 2023, Appellant was tried by a General Court-Martial sitting as a military judge alone. R. at 1, 19, 318, 330. Consistent with his pleas, R. at 331-32, the military judge found Appellant guilty of one charge and three specifications in violation of Article 134, UCMJ, for wrongful production of child pornography, having sexual intercourse with a minor ward of Appellant, and extramarital sexual conduct. R. at 439. In addition, the military judge found Appellant guilty, consistent with his pleas, R. at 331-32, of one charge and two specifications of failure to obey a lawful order, in violation of Article 92, UCMJ, and one charge and specification of domestic violence, in violation of Article 128b, UCMJ. R. at 439. Pursuant Appellant’s plea agreement, the Government withdrew and dismissed, with prejudice, the following: one specification of wrongful possession of child pornography, one

specification of violating 18 U.S.C. § 2422(b), and one specification of communicating indecent language, in violation of Article 134, UCMJ; four specifications of domestic violence, in violation of Article 128b, UCMJ; one charge and specification of sexual assault, in violation of Article 120, UCMJ; one charge and specification of obstruction of justice, in violation of Article 131b. R. at 440, 511.

On 19 April 2023, the military judge sentenced Appellant to a dishonorable discharge, confinement for three years and six months, reduction to the grade of E-1, and a reprimand. R. at 509. Appellant was credited with 240 days of pretrial confinement credit. R. at 510. The convening authority deferred automatic forfeitures and the reduction in grade until the entry of judgement Record of Trial (ROT), Vol. 1, Convening Authority Decision on Action – *United States v. Senior Airman Franklin A.T. Rice*. The convening authority also waived automatic forfeitures for a period of six months, ordering the sum of the waived forfeitures to the named victims. *Id.* Appellant is currently confined.

The ROT is ten volumes, consisting of 41 appellate exhibits, 14 prosecution exhibits, four defense exhibits, and two court exhibits; the transcript is 514 pages long. 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. Appellant was advised of the request for this enlargement of time. Appellant has provided limited consent to disclose a confidential communication with counsel wherein he consented to the request for this enlargement of time.

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

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 29 November 2023.

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force



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

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Senior Airman (E-4)	)	ACM 40502
FRANKLIN A.T. RICE, USAF,	)	
<i>Appellant.</i>	)	Panel No. 3
	)	

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

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

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

PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 29 November 2023.

PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (THIRD)</b>
	)	
v.	)	Before Panel No. 3
	)	
Senior Airman (SrA)	)	No. ACM 40502
<b>FRANKLIN A.T. RICE,</b>	)	
United States Air Force	)	29 December 2023
<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 his third enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **4 February 2024**. The record of trial was docketed with this Court on 8 August 2023. From the date of docketing to the present date, 143 days have elapsed. On the date requested, 180 days will have elapsed.

On 15 December 2022, 21-22 March 2023, and 18-19 April 2023, Appellant was tried by a General Court-Martial sitting as a military judge alone. R. at 1, 19, 318, 330. Consistent with his pleas, R. at 331-32, the military judge found Appellant guilty of one charge and three specifications in violation of Article 134, UCMJ, for wrongful production of child pornography, having sexual intercourse with a minor ward of Appellant, and extramarital sexual conduct. R. at 439. In addition, the military judge found Appellant guilty, consistent with his pleas, R. at 331-32, of one charge and two specifications of failure to obey a lawful order, in violation of Article 92, UCMJ, and one charge and specification of domestic violence, in violation of Article 128b, UCMJ. R. at 439. Pursuant Appellant’s plea agreement, the Government withdrew and dismissed, with prejudice, the following: one specification of wrongful possession of child pornography, one

specification of violating 18 U.S.C. § 2422(b), and one specification of communicating indecent language, in violation of Article 134, UCMJ; four specifications of domestic violence, in violation of Article 128b, UCMJ; one charge and specification of sexual assault, in violation of Article 120, UCMJ; one charge and specification of obstruction of justice, in violation of Article 131b. R. at 440, 511.

On 19 April 2023, the military judge sentenced Appellant to a dishonorable discharge, confinement for three years and six months, reduction to the grade of E-1, and a reprimand. R. at 509. Appellant was credited with 240 days of pretrial confinement credit. R. at 510. The convening authority deferred automatic forfeitures and the reduction in grade until the entry of judgement Record of Trial (ROT), Vol. 1, Convening Authority Decision on Action – *United States v. Senior Airman Franklin A.T. Rice*. The convening authority also waived automatic forfeitures for a period of six months, ordering the sum of the waived forfeitures to the named victims. *Id.* Appellant is currently confined.

The ROT is ten volumes, consisting of 41 appellate exhibits, 14 prosecution exhibits, four defense exhibits, and two court exhibits; the transcript is 514 pages long. 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. Appellant was advised of the request for this enlargement of time. Appellant has provided limited consent to disclose a confidential communication with counsel wherein he consented to the request for this enlargement of time.

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

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 29 December 2023.

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (FOURTH)</b>
	)	
v.	)	Before Panel No. 3
	)	
Senior Airman (SrA)	)	No. ACM 40502
<b>FRANKLIN A.T. RICE,</b>	)	
United States Air Force	)	26 January 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 (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his fourth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **5 March 2024**. The record of trial was docketed with this Court on 8 August 2023. From the date of docketing to the present date, 171 days have elapsed. On the date requested, 210 days will have elapsed.

On 15 December 2022, 21-22 March 2023, and 18-19 April 2023, Appellant was tried by a General Court-Martial sitting as a military judge alone at Joint Base Pearl Harbor-Hickam. R. at 1, 19, 318, 330. Consistent with his pleas, R. at 331-32, the military judge found Appellant guilty of one charge and three specifications in violation of Article 134, UCMJ, for wrongful production of child pornography, having sexual intercourse with a minor ward of Appellant, and extramarital sexual conduct. R. at 439. In addition, the military judge found Appellant guilty, consistent with his pleas, R. at 331-32, of one charge and two specifications of failure to obey a lawful order, in violation of Article 92, UCMJ, and one charge and specification of domestic violence, in violation of Article 128b, UCMJ. R. at 439. Pursuant Appellant’s plea agreement, the Government withdrew and dismissed, with prejudice, the following: one specification of

wrongful possession of child pornography, one specification of violating 18 U.S.C. § 2422(b), and one specification of communicating indecent language, in violation of Article 134, UCMJ; four specifications of domestic violence, in violation of Article 128b, UCMJ; one charge and specification of sexual assault, in violation of Article 120, UCMJ; one charge and specification of obstruction of justice, in violation of Article 131b. R. at 440, 511.

On 19 April 2023, the military judge sentenced Appellant to a dishonorable discharge, confinement for three years and six months, reduction to the grade of E-1, and a reprimand. R. at 509. Appellant was credited with 240 days of pretrial confinement credit. R. at 510. The convening authority deferred automatic forfeitures and the reduction in grade until the entry of judgement Record of Trial (ROT), Vol. 1, Convening Authority Decision on Action – *United States v. Senior Airman Franklin A.T. Rice*. The convening authority also waived automatic forfeitures for a period of six months, ordering the sum of the waived forfeitures to the named victims. *Id.* Appellant is currently confined.

The ROT is ten volumes, consisting of 41 appellate exhibits, 14 prosecution exhibits, four defense exhibits, and two court exhibits; the transcript is 514 pages long. Undersigned counsel is currently assigned 18 cases; 14 cases are pending initial AOE's before this Court. The following cases before this Court have priority over the instant case:

- 1) *United States v. Daughma*, ACM 40385 – The Record of trial is nine volumes consisting of 18 prosecution exhibits, five defense exhibits, 64 appellate exhibits, and one court exhibit. Undersigned counsel has reviewed the sealed and unsealed transcript and exhibits, is conducting legal research, and drafting assignment of errors.



- 2) *United States v. Logan*, ACM 40407 – The record of trial is seven volumes, consisting of seven prosecution exhibits, 12 defense exhibits, 26 appellate exhibits, and three court exhibits; the transcript is 657 pages.
- 3) *United States v. Stelly*, ACM 40425 – The record of trial is four volumes consisting of three prosecution exhibits, five defense exhibits, and 10 appellate exhibits; the transcript is 109 pages.
- 4) *United States v. Pulley*, ACM 40438 – The record of trial is 11 volumes, consisting of 22 prosecution exhibits, five defense exhibits, and 66 appellate exhibits; the transcript is 730 pages.
- 5) *United States v. Thomas*, ACM 40418 – The record of trial is six volumes, consisting of six prosecution exhibits, 16 defense exhibits, and 50 appellate exhibits; the transcript is 746 pages.
- 6) *United States v. Dillon*, ACM 40463 – The record of trial is four volumes, consisting of nine prosecution exhibits, eight defense exhibits, one court exhibit, and seven appellate exhibits; the transcript is 380 pages.
- 7) *United States v. Couty*, ACM 40484 – The record of trial is seven volumes, consisting of 20 prosecution exhibits, two defense exhibits, two court exhibits, and 29 appellate exhibits; the transcript is 868 pages.
- 8) *United States v. Kelnhofer*, ACM 23012 – The record of trial is two volumes, consisting of 18 prosecution exhibits, three defense exhibits, and 11 appellate exhibits; the transcript is 494 pages.

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. Appellant was advised of the request for this enlargement of time. Appellant has provided limited consent to disclose a confidential communication with counsel wherein he consented to the request for this enlargement of time.

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

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 26 January 2024.

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

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

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Senior Airman (E-4)	)	ACM 40502
FRANKLIN A.T. RICE, USAF,	)	
<i>Appellant.</i>	)	Panel No. 3
	)	

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

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

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

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

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 26 January 2024.

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

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
	)	<b>ENLARGEMENT OF TIME (FIFTH)</b>
	)	
v.	)	Before Panel No. 3
	)	
Senior Airman (SrA)	)	No. ACM 40502
<b>FRANKLIN A.T. RICE,</b>	)	
United States Air Force	)	22 February 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 (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his fifth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **4 April 2024**. The record of trial was docketed with this Court on 8 August 2023. From the date of docketing to the present date, 198 days have elapsed. On the date requested, 240 days will have elapsed.

On 15 December 2022, 21-22 March 2023, and 18-19 April 2023, Appellant was tried by a General Court-Martial sitting as a military judge alone at Joint Base Pearl Harbor-Hickam. R. at 1, 19, 318, 330. Consistent with his pleas, R. at 331-32, the military judge found Appellant guilty of one charge and three specifications in violation of Article 134, UCMJ, for wrongful production of child pornography, having sexual intercourse with a minor ward of Appellant, and extramarital sexual conduct. R. at 439. In addition, the military judge found Appellant guilty, consistent with his pleas, R. at 331-32, of one charge and two specifications of failure to obey a lawful order, in violation of Article 92, UCMJ, and one charge and specification of domestic violence, in violation of Article 128b, UCMJ. R. at 439. Pursuant Appellant’s plea agreement, the Government withdrew and dismissed, with prejudice, the following: one specification of

wrongful possession of child pornography, one specification of violating 18 U.S.C. § 2422(b), and one specification of communicating indecent language, in violation of Article 134, UCMJ; four specifications of domestic violence, in violation of Article 128b, UCMJ; one charge and specification of sexual assault, in violation of Article 120, UCMJ; one charge and specification of obstruction of justice, in violation of Article 131b. R. at 440, 511.

On 19 April 2023, the military judge sentenced Appellant to a dishonorable discharge, confinement for three years and six months, reduction to the grade of E-1, and a reprimand. R. at 509. Appellant was credited with 240 days of pretrial confinement credit. R. at 510. The convening authority deferred automatic forfeitures and the reduction in grade until the entry of judgement Record of Trial (ROT), Vol. 1, Convening Authority Decision on Action – *United States v. Senior Airman Franklin A.T. Rice*. The convening authority also waived automatic forfeitures for a period of six months, ordering the sum of the waived forfeitures to the named victims. *Id.* Appellant is currently confined.

The ROT is ten volumes, consisting of 41 appellate exhibits, 14 prosecution exhibits, four defense exhibits, and two court exhibits; the transcript is 514 pages long. Undersigned counsel is currently assigned 19 cases; 15 cases are pending initial AOE's before this Court. The following cases before this Court have priority over the instant case:

- 1) *United States v. Daughma*, ACM 40385 – The Record of trial is nine volumes consisting of 18 prosecution exhibits, five defense exhibits, 64 appellate exhibits, and one court exhibit. Undersigned counsel filed an assignment of errors brief on 7 February 2024. The Government's answer is due on 8 March 2024, with any reply being due on 15 March 2024.

- 2) *United States v. Logan*, ACM 40407 – The record of trial is seven volumes, consisting of seven prosecution exhibits, 12 defense exhibits, 26 appellate exhibits, and three court exhibits; the transcript is 657 pages. Undersigned counsel has completed a review of the sealed and unsealed record. Civilian co-counsel and undersigned counsel have identified several issues and have begun research.
- 3) *United States v. Stelly*, ACM 40425 – The record of trial is four volumes consisting of three prosecution exhibits, five defense exhibits, and 10 appellate exhibits; the transcript is 109 pages. Undersigned counsel has completed his review of the record. This appellant does not intend to raise any issues before this Court, and undersigned counsel anticipates a forthcoming motion to withdraw.
- 4) *United States v. Pulley*, ACM 40438 – The record of trial is 11 volumes, consisting of 22 prosecution exhibits, five defense exhibits, and 66 appellate exhibits; the transcript is 730 pages. Yesterday, 21 February 2024, undersigned counsel submitted a consent motion to review sealed materials, which was granted by this Court today, 22 February 2024.
- 5) *United States v. Thomas*, ACM 40418 – The record of trial is six volumes, consisting of six prosecution exhibits, 16 defense exhibits, and 50 appellate exhibits; the transcript is 746 pages. Undersigned counsel has completed his initial review of the record and has discussed potential issues with civilian co-counsel.
- 6) *United States v. Dillon*, ACM 40463 – The record of trial is four volumes, consisting of nine prosecution exhibits, eight defense exhibits, one court exhibit, and seven appellate exhibits; the transcript is 380 pages.



- 7) *United States v. Couty*, ACM 40484 – The record of trial is seven volumes, consisting of 20 prosecution exhibits, two defense exhibits, two court exhibits, and 29 appellate exhibits; the transcript is 868 pages.
- 8) *United States v. Kelnhofer*, ACM 23012 – The record of trial is two volumes, consisting of 18 prosecution exhibits, three defense exhibits, and 11 appellate exhibits; the transcript is 494 pages.

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. Appellant was advised of the request for this enlargement of time. Appellant has provided limited consent to disclose a confidential communication with counsel wherein he consented to the request for this enlargement of time.

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

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 22 February 2024.

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

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

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Senior Airman (E-4)	)	ACM 40502
FRANKLIN A.T. RICE, USAF,	)	
<i>Appellant.</i>	)	Panel No. 3
	)	

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

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

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

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

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 22 February 2024.

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

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (SIXTH)</b>
	)	
v.	)	Before Panel No. 3
	)	
Senior Airman (SrA)	)	No. ACM 40502
<b>FRANKLIN A.T. RICE,</b>	)	
United States Air Force	)	25 March 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 (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his sixth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **4 May 2024**. The record of trial was docketed with this Court on 8 August 2023. From the date of docketing to the present date, 230 days have elapsed. On the date requested, 270 days will have elapsed.

On 15 December 2022, 21-22 March 2023, and 18-19 April 2023, Appellant was tried by a General Court-Martial sitting as a military judge alone at Joint Base Pearl Harbor-Hickam. R. at 1, 19, 318, 330. Consistent with his pleas, R. at 331-32, the military judge found Appellant guilty of one charge and three specifications in violation of Article 134, UCMJ, for wrongful production of child pornography, having sexual intercourse with a minor ward of Appellant, and extramarital sexual conduct. R. at 439. In addition, the military judge found Appellant guilty, consistent with his pleas, R. at 331-32, of one charge and two specifications of failure to obey a lawful order, in violation of Article 92, UCMJ, and one charge and specification of domestic violence, in violation of Article 128b, UCMJ. R. at 439. Pursuant Appellant’s plea agreement, the Government withdrew and dismissed, with prejudice, the following: one specification of

wrongful possession of child pornography, one specification of violating 18 U.S.C. § 2422(b), and one specification of communicating indecent language, in violation of Article 134, UCMJ; four specifications of domestic violence, in violation of Article 128b, UCMJ; one charge and specification of sexual assault, in violation of Article 120, UCMJ; one charge and specification of obstruction of justice, in violation of Article 131b. R. at 440, 511.

On 19 April 2023, the military judge sentenced Appellant to a dishonorable discharge, confinement for three years and six months, reduction to the grade of E-1, and a reprimand. R. at 509. Appellant was credited with 240 days of pretrial confinement credit. R. at 510. The convening authority deferred automatic forfeitures and the reduction in grade until the entry of judgement Record of Trial (ROT), Vol. 1, Convening Authority Decision on Action – *United States v. Senior Airman Franklin A.T. Rice*. The convening authority also waived automatic forfeitures for a period of six months, ordering the sum of the waived forfeitures to the named victims. *Id.* Appellant is currently confined.

The ROT is ten volumes, consisting of 41 appellate exhibits, 14 prosecution exhibits, four defense exhibits, and two court exhibits; the transcript is 514 pages long. Undersigned counsel is currently assigned 17 cases; 14 cases are pending initial AOE's before this Court. One case before the Court of Appeals for the Armed Forces has priority over this case: *United States v. Knodel*. Undersigned counsel and civilian co-counsel are preparing a petition and corresponding supplement.

In addition, the following cases before this Court have priority over the instant case:

- 1) *United States v. Logan*, ACM 40407 – The record of trial is seven volumes, consisting of seven prosecution exhibits, 12 defense exhibits, 26 appellate exhibits, and three court

- exhibits; the transcript is 657 pages. Undersigned and civilian co-counsel have researched several AOE's and have started drafting. This appellant is not confined.
- 2) *United States v. Pulley*, ACM 40438 – The record of trial is 11 volumes, consisting of 22 prosecution exhibits, five defense exhibits, and 66 appellate exhibits; the transcript is 730 pages. This appellant is confined.
  - 3) *United States v. Thomas*, ACM 40418 – The record of trial is six volumes, consisting of six prosecution exhibits, 16 defense exhibits, and 50 appellate exhibits; the transcript is 746 pages. Undersigned counsel has completed his initial review of the record and has discussed potential issues with civilian co-counsel. This appellant is not confined.
  - 4) *United States v. Dillon*, ACM 40463 – The record of trial is four volumes, consisting of nine prosecution exhibits, eight defense exhibits, one court exhibit, and seven appellate exhibits; the transcript is 380 pages. This appellant is confined.
  - 5) *United States v. Couty*, ACM 40484 – The record of trial is seven volumes, consisting of 20 prosecution exhibits, two defense exhibits, two court exhibits, and 29 appellate exhibits; the transcript is 868 pages. This appellant is confined.
  - 6) *United States v. Kelhofer*, ACM 23012 – The record of trial is two volumes, consisting of 18 prosecution exhibits, three defense exhibits, and 11 appellate exhibits; the transcript is 494 pages. This appellant is not 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. Appellant was advised of the request for this enlargement

of time. Appellant has provided limited consent to disclose a confidential communication with counsel wherein he consented to the request for this enlargement of time.

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

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force



**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 25 March 2024.

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

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

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Senior Airman (E-4)	)	ACM 40502
FRANKLIN A.T. RICE, USAF,	)	
<i>Appellant.</i>	)	Panel No. 3
	)	

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

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

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

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

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 26 March 2024.

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

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (SEVENTH)</b>
	)	
v.	)	Before Panel No. 3
	)	
Senior Airman (SrA)	)	No. ACM 40502
<b>FRANKLIN A.T. RICE,</b>	)	
United States Air Force	)	24 April 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 (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his seventh enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **3 June 2024**. The record of trial was docketed with this Court on 8 August 2023. From the date of docketing to the present date, 260 days have elapsed. On the date requested, 300 days will have elapsed.

On 15 December 2022, 21-22 March 2023, and 18-19 April 2023, Appellant was tried by a General Court-Martial sitting as a military judge alone at Joint Base Pearl Harbor-Hickam. R. at 1, 19, 318, 330. Consistent with his pleas, R. at 331-32, the military judge found Appellant guilty of one charge and three specifications in violation of Article 134, UCMJ, for wrongful production of child pornography, having sexual intercourse with a minor ward of Appellant, and extramarital sexual conduct. R. at 439. In addition, the military judge found Appellant guilty, consistent with his pleas, R. at 331-32, of one charge and two specifications of failure to obey a lawful order, in violation of Article 92, UCMJ, and one charge and specification of domestic violence, in violation of Article 128b, UCMJ. R. at 439. Pursuant Appellant’s plea agreement, the Government withdrew and dismissed, with prejudice, the following: one specification of

wrongful possession of child pornography, one specification of violating 18 U.S.C. § 2422(b), and one specification of communicating indecent language, in violation of Article 134, UCMJ; four specifications of domestic violence, in violation of Article 128b, UCMJ; one charge and specification of sexual assault, in violation of Article 120, UCMJ; one charge and specification of obstruction of justice, in violation of Article 131b. R. at 440, 511.

On 19 April 2023, the military judge sentenced Appellant to a dishonorable discharge, confinement for three years and six months, reduction to the grade of E-1, and a reprimand. R. at 509. Appellant was credited with 240 days of pretrial confinement credit. R. at 510. The convening authority deferred automatic forfeitures and the reduction in grade until the entry of judgement Record of Trial (ROT), Vol. 1, Convening Authority Decision on Action – *United States v. Senior Airman Franklin A.T. Rice*. The convening authority also waived automatic forfeitures for a period of six months, ordering the sum of the waived forfeitures to the named victims. *Id.* Appellant is currently confined.

The ROT is ten volumes, consisting of 41 appellate exhibits, 14 prosecution exhibits, four defense exhibits, and two court exhibits; the transcript is 514 pages long.

Undersigned counsel is currently assigned 21 cases; 17 cases are pending initial AOE's before this Court. One case before the Court of Appeals for the Armed Forces has priority over this case: *United States v. Knodel*. Undersigned counsel and civilian co-counsel are preparing a petition and corresponding supplement.

In addition, the following cases before this Court have priority over the instant case:

- 1) *United States v. Logan*, ACM 40407 – The record of trial is seven volumes, consisting of seven prosecution exhibits, 12 defense exhibits, 26 appellate exhibits, and three court exhibits; the transcript is 657 pages. The initial AOE has been filed and the

Government's answer is due on 6 May 2024. Any reply brief will be due on 13 May 2024. This appellant is not confined.

- 2) *United States v. Dillon*, ACM 40463 – The record of trial is four volumes, consisting of nine prosecution exhibits, eight defense exhibits, one court exhibit, and seven appellate exhibits; the transcript is 380 pages. Undersigned counsel has completed an initial review of the record and has begun research on potential AOE's. This appellant is confined.
- 3) *United States v. Murray*, Misc. Dkt. No. 2024-04 – This is an Article 62 Appeal. The Government's initial brief is due on 6 May 2024, with appellee's answer due on 27 May 2024. Undersigned counsel has begun a review of the record.
- 4) *United States v. Pulley*, ACM 40438 – The record of trial is 11 volumes, consisting of 22 prosecution exhibits, five defense exhibits, and 66 appellate exhibits; the transcript is 730 pages. Undersigned counsel has begun reviewing the unsealed record and identified several potential issues. This appellant is confined.
- 5) *United States v. Couty*, ACM 40484 – The record of trial is seven volumes, consisting of 20 prosecution exhibits, two defense exhibits, two court exhibits, and 29 appellate exhibits; the transcript is 868 pages. This appellant is confined.
- 6) *United States v. Kelhofer*, ACM 23012 – The record of trial is two volumes, consisting of 18 prosecution exhibits, three defense exhibits, and 11 appellate exhibits; the transcript is 494 pages. This appellant is not 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. Appellant was advised of the request for this enlargement of time. Appellant has provided limited consent to disclose a confidential communication with counsel wherein he consented to the request for this enlargement of time.

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

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 24 April 2024.

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force



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

UNITED STATES,	)	UNITED STATES'
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Senior Airman (E-4)	)	ACM 40502
FRANKLIN A.T. RICE, USAF,	)	
<i>Appellant.</i>	)	Panel No. 3
	)	

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

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

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

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 25 April 2024.

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

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (EIGHTH)</b>
	)	
v.	)	Before Panel No. 3
	)	
Senior Airman (SrA)	)	No. ACM 40502
<b>FRANKLIN A.T. RICE,</b>	)	
United States Air Force	)	23 May 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 (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his eighth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **3 July 2024**. The record of trial was docketed with this Court on 8 August 2023. From the date of docketing to the present date, 289 days have elapsed. On the date requested, 330 days will have elapsed.

On 15 December 2022, 21-22 March 2023, and 18-19 April 2023, Appellant was tried by a General Court-Martial sitting as a military judge alone at Joint Base Pearl Harbor-Hickam. R. at 1, 19, 318, 330. Consistent with his pleas, R. at 331-32, the military judge found Appellant guilty of one charge and three specifications in violation of Article 134, UCMJ, for wrongful production of child pornography, having sexual intercourse with a minor ward of Appellant, and extramarital sexual conduct. R. at 439. In addition, the military judge found Appellant guilty, consistent with his pleas, R. at 331-32, of one charge and two specifications of failure to obey a lawful order, in violation of Article 92, UCMJ, and one charge and specification of domestic violence, in violation of Article 128b, UCMJ. R. at 439. Pursuant Appellant’s plea agreement, the Government withdrew and dismissed, with prejudice, the following: one specification of

wrongful possession of child pornography, one specification of violating 18 U.S.C. § 2422(b), and one specification of communicating indecent language, in violation of Article 134, UCMJ; four specifications of domestic violence, in violation of Article 128b, UCMJ; one charge and specification of sexual assault, in violation of Article 120, UCMJ; one charge and specification of obstruction of justice, in violation of Article 131b. R. at 440, 511.

On 19 April 2023, the military judge sentenced Appellant to a dishonorable discharge, confinement for three years and six months, reduction to the grade of E-1, and a reprimand. R. at 509. Appellant was credited with 240 days of pretrial confinement credit. R. at 510. The convening authority deferred automatic forfeitures and the reduction in grade until the entry of judgement Record of Trial (ROT), Vol. 1, Convening Authority Decision on Action – *United States v. Senior Airman Franklin A.T. Rice*. The convening authority also waived automatic forfeitures for a period of six months, ordering the sum of the waived forfeitures to the named victims. *Id.* Appellant is currently confined.

The ROT is ten volumes, consisting of 41 appellate exhibits, 14 prosecution exhibits, four defense exhibits, and two court exhibits; the transcript is 514 pages long.

Undersigned counsel is currently assigned 23 cases; 16 cases are pending initial AOE's before this Court. One case before the Court of Appeals for the Armed Forces has priority over this case: *United States v. Knodel*. Undersigned counsel is presently working with civilian co-counsel in drafting a supplement to the petition for grant of review.

In addition, the following cases before this Court have priority over the instant case:

- 1) *United States v. Dillon*, ACM 40463 – The record of trial is four volumes, consisting of nine prosecution exhibits, eight defense exhibits, one court exhibit, and seven appellate exhibits; the transcript is 380 pages. Undersigned counsel filed an assignment

- of error on 13 May 2024. The Government's Answer is due on 12 June 2024, with any reply being due on 19 June 2024. This appellant is confined.
- 2) *United States v. Murray*, Misc. Dkt. No. 2024-04 – This is an Article 62 Appeal. The Government filed their opening brief on 6 May 2024, with appellee's answer due on 28 May 2024. Undersigned counsel is presently drafting this appellee's answer.
  - 3) *United States v. Pulley*, ACM 40438 – The record of trial is 11 volumes, consisting of 22 prosecution exhibits, five defense exhibits, and 66 appellate exhibits; the transcript is 730 pages. Undersigned counsel has begun reviewing the unsealed record and identified several potential issues. This appellant is confined.
  - 4) *United States v. Couty*, ACM 40484 – The record of trial is seven volumes, consisting of 20 prosecution exhibits, two defense exhibits, two court exhibits, and 29 appellate exhibits; the transcript is 868 pages. This appellant is confined.
  - 5) *United States v. Kelhofer*, ACM 23012 – The record of trial is two volumes, consisting of 18 prosecution exhibits, three defense exhibits, and 11 appellate exhibits; the transcript is 494 pages. This appellant is not 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. Appellant was advised of the request for this enlargement of time. Appellant has provided limited consent to disclose a confidential communication with counsel wherein he consented to the request for this enlargement of time.

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

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 23 May 2024.

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force



**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.	)	
	)	
Senior Airman (E-4)	)	ACM 40502
FRANKLIN A.T. RICE, USAF,	)	
<i>Appellant.</i>	)	Panel No. 3
	)	

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time.

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 military counsel has not completed review of the record of trial at this late stage of the appellate process.

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

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

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 28 May 2024.

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

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

UNITED STATES	)	No. ACM 40502
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Franklin A.T. RICE	)	
Senior Airman (E-4)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 3</b>

On 23 May 2024, counsel for Appellant submitted a Motion for Enlargement of Time (Eighth) 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, case law, and this court’s Rules of Practice and Procedure. Accordingly, it is by the court on this 30th day of May, 2024,

**ORDERED:**

Appellant’s Motion for Enlargement of Time (Eighth) is **GRANTED**. Appellant shall file any assignments of error not later than **3 July 2024**.

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

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



FOR THE COURT

FLEMING E. KEEFE, Capt, USAF  
Acting Clerk of the Court

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

<b>UNITED STATES</b>	)	<b>APPELLANT’S MOTION FOR</b>
<i>Appellee</i>	)	<b>ENLARGEMENT OF TIME (NINTH)</b>
	)	
v.	)	Before Panel No. 3
	)	
Senior Airman (SrA)	)	No. ACM 40502
<b>FRANKLIN A.T. RICE,</b>	)	
United States Air Force	)	25 June 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 (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his ninth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **2 August 2024**. The record of trial was docketed with this Court on 8 August 2023. From the date of docketing to the present date, 322 days have elapsed. On the date requested, 360 days will have elapsed.

On 15 December 2022, 21-22 March 2023, and 18-19 April 2023, Appellant was tried by a General Court-Martial sitting as a military judge alone at Joint Base Pearl Harbor-Hickam. R. at 1, 19, 318, 330. Consistent with his pleas, R. at 331-32, the military judge found Appellant guilty of one charge and three specifications in violation of Article 134, UCMJ, for wrongful production of child pornography, having sexual intercourse with a minor ward of Appellant, and extramarital sexual conduct. R. at 439. In addition, the military judge found Appellant guilty, consistent with his pleas, R. at 331-32, of one charge and two specifications of failure to obey a lawful order, in violation of Article 92, UCMJ, and one charge and specification of domestic violence, in violation of Article 128b, UCMJ. R. at 439. Pursuant Appellant’s plea agreement, the Government withdrew and dismissed, with prejudice, the following: one specification of

wrongful possession of child pornography, one specification of violating 18 U.S.C. § 2422(b), and one specification of communicating indecent language, in violation of Article 134, UCMJ; four specifications of domestic violence, in violation of Article 128b, UCMJ; one charge and specification of sexual assault, in violation of Article 120, UCMJ; one charge and specification of obstruction of justice, in violation of Article 131b. R. at 440, 511.

On 19 April 2023, the military judge sentenced Appellant to a dishonorable discharge, confinement for three years and six months, reduction to the grade of E-1, and a reprimand. R. at 509. Appellant was credited with 240 days of pretrial confinement credit. R. at 510. The convening authority deferred automatic forfeitures and the reduction in grade until the entry of judgement Record of Trail (ROT), Vol. 1, Convening Authority Decision on Action – *United States v. Senior Airman Franklin A.T. Rice*. The convening authority also waived automatic forfeitures for a period of six months, ordering the sum of the waived forfeitures to the named victims. *Id.* Appellant is currently confined.

The ROT is ten volumes, consisting of 41 appellate exhibits, 14 prosecution exhibits, four defense exhibits, and two court exhibits; the transcript is 514 pages long.

Undersigned counsel is currently assigned 25 cases; 19 cases are pending initial AOE's before this Court. One case before the Court of Appeals for the Armed Forces (CAAF) has priority over this case: *United States v. Valentin-Andino*. Undersigned counsel is presently conducting research in preparation to submit a petition and corresponding supplement to the CAAF, which is due on 1 August 2024. The following cases before this Court also have priority over the instant case:

- 1) *United States v. Murray*, Misc. Dkt. No. 2024-04 – This is an Article 62 Appeal.

Undersigned counsel filed appellee's answer on 28 May 2024. On 5 June 2024, the Government moved for oral argument. Should this Court grant the Government's motion, preparation for oral argument will take priority.

- 2) *United States v. Pulley*, ACM 40438 – The record of trial is 11 volumes, consisting of 22 prosecution exhibits, five defense exhibits, and 66 appellate exhibits; the transcript is 730 pages. Undersigned counsel has reviewed the sealed exhibits and portions of the unsealed record. Undersigned counsel has identified several issues and has begun conducting research on those issues. Additionally, last week, undersigned counsel prepared and filed an Article 138, UCMJ, complaint on behalf of this appellant. This appellant is confined.
- 3) *United States v. Couty*, ACM 40484 – The record of trial is seven volumes, consisting of 20 prosecution exhibits, two defense exhibits, two court exhibits, and 29 appellate exhibits; the transcript is 868 pages. Undersigned counsel has begun a review of this record and identified several potential issues. This appellant is confined.
- 4) *United States v. Kelnhofer*, ACM 23012 – The record of trial is two volumes, consisting of 18 prosecution exhibits, three defense exhibits, and 11 appellate exhibits; the transcript is 494 pages. Undersigned counsel has begun a review of this record. This appellant is not 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. Appellant was advised of the request for this enlargement of time. Appellant has been apprised of the status of undersigned counsel's review of his case.<sup>1</sup> Appellant has provided limited consent to disclose a confidential communication with counsel wherein he consented to the request for this enlargement of time.

---

<sup>1</sup> Appellant consents to this limited disclosure of an attorney-client confidential communication.

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

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 25 June 2024.

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force



**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.	)	
	)	
Senior Airman (E-4)	)	ACM 40502
FRANKLIN A.T. RICE, USAF,	)	
<i>Appellant.</i>	)	Panel No. 3
	)	

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time.

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 military counsel has not completed review of the record of trial at this late stage of the appellate process.

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

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

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 25 June 2024.

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

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

UNITED STATES	)	No. ACM 40502
<i>Appellee</i>	)	
	)	
v.	)	
	)	<b>ORDER</b>
Franklin A.T. RICE	)	
Senior Airman (E-4)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 3</b>

On 25 June 2024, counsel for Appellant submitted a Motion for Enlargement of Time (Ninth) 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, case law, and this court’s Rules of Practice and Procedure.

Accordingly, it is by the court on this 27th day of June, 2024,

**ORDERED:**

Appellant’s Motion for Enlargement of Time (Ninth) is **GRANTED**. Appellant shall file any assignments of error not later than **2 August 2024**.

Any subsequent motions for enlargement of time will likely require a status conference with all assigned counsel prior to the court’s ruling on any such motion.

Appellant’s counsel are further reminded that at the expiration of this enlargement of time, 360 days will have elapsed from the time of docketing. Any future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, will not be granted absent *exceptional circumstances*. Counsel should come prepared to discuss and substantiate any qualifying exceptional circumstances during any future status conference.



FOR THE COURT

FLEMING E. KEEFE, Capt, USAF  
Deputy Clerk of the Court

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

**UNITED STATES**

*Appellee*

v.

Senior Airman (SrA)  
**FRANKLIN A.T. RICE,**  
United States Air Force

*Appellant*

**CONSENT MOTION TO EXAMINE  
SEALED MATERIALS**

Before Panel No. 3

No. ACM 40502

15 July 2023

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

Pursuant to Rules 3.1 and 23.3(f) of this Court’s Rules of Practice and Procedure and Rule for Courts-Martial (R.C.M.) 1113(b)(3)(B)(i), the Appellant moves for both parties to examine the following sealed materials:

- 1) **Closed Session Audio Recording (Record of Trial (ROT), Volume 1).** This closed session hearing was attended by trial counsel, defense counsel, victims’ counsel, and military judge. The closed session was ostensibly held to consider Mil. R. Evid. 412 and Mil. R. Evid. 513 motions made by the parties. R. at 87-88.
- 2) **Closed Session Transcript Pages (R. 225-65).** This closed session hearing was attended by trial counsel, defense counsel, victims’ counsel, and military judge. The closed session was ostensibly held to consider Mil. R. Evid. 412 and Mil. R. Evid. 513 motions made by the parties. R. at 87-88. The closed session spans pages 225 through 265 in the transcript.
- 3) **Prosecution Exhibit 3.** This exhibit is one compact disc containing contraband images of AB. *See* Pros. Ex. 11 at 6; *see also* R. at 335-36 (indicating that the attachments to the stipulation of fact are their own independent exhibits). This exhibit was entered into

evidence and considered by the trier of fact for findings and sentencing. R. at 339. This exhibit was reviewed by trial and defense counsel and ordered sealed by the military judge. R. at 508; Pros. Ex. 11 at 6-7.

- 4) **Appellate Exhibits X-XVIII, XXVII, XXXII-XXXIII, XXXVI-XXXVII.** These exhibits were various motions, orders, rulings, and corresponding evidence concerning the litigation of Mil. R. Evid. 412 and Mil. R. Evid. 513 issues before trial. *See, e.g.*, R. at 84-90, 266, 321. These various exhibits were reviewed by the parties and considered—or in some cases issued—by the military judge. These exhibits were ordered sealed by the military judge. R. at 88, 91, 266, 321.

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 counsels' responsibilities, undersigned counsel asserts that review of the referenced exhibits is necessary to conduct a complete review of the record of trial and be in a position to advocate competently on behalf of Appellant. The Appellant stands convicted of an offense related to the sealed materials admitted at trial. In order to fully present matters to this Court, the undersigned counsel requires access to sealed material.

Moreover, a review of the entire record of trial is necessary because this Court is empowered by Article 66, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 866, to grant relief based on a review and analysis of “the entire record.” To determine whether the record of trial yields grounds for this Court to grant relief under Article 66, UCMJ, 10 U.S.C. § 866, appellate defense counsel must, therefore, examine “the entire record.”

Although Courts of Criminal Appeals have a broad mandate to review the record unconstrained by an appellant's assignments of error, that broad mandate does not reduce the importance of adequate representation. As we said in *United States v.*

*Ortiz*, 24 M.J. 323, 325 (C.M.A. 1987), independent review is not the same as competent appellate representation.

*United States v. May*, 47 M.J. 478, 481, (C.A.A.F. 1998). The sealed materials referenced above must be reviewed to ensure undersigned counsel provides “competent appellate representation.”

*Id.* Accordingly, examination of these exhibits is reasonably necessary since undersigned counsel cannot fulfill his duty of representation under Article 70, UCMJ, 10 U.S.C. § 870, without first reviewing the complete record of trial.

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

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

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 15 July 2024.

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

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

<b>UNITED STATES</b>	)	<b>No. ACM 40502</b>
<i>Appellee</i>	)	
	)	
<b>v.</b>	)	
	)	<b>ORDER</b>
<b>Franklin A.T. RICE</b>	)	
<b>Senior Airman (E-4)</b>	)	
<b>U.S. Air Force</b>	)	
<i>Appellant</i>	)	<b>Panel 3</b>

On 15 July 2024, counsel for Appellant submitted a Consent Motion to Examine Sealed Materials, requesting both parties be allowed to examine sealed transcript pages 225–65 and the associated audio recording to those pages which pertain to a closed hearing; Prosecution Exhibit 3; and Appellate Exhibits X–XVIII, XXVII, XXXII–XXXIII, and XXXVI–XXXVII. All requested items were reviewed, or the hearing was attended, by trial and 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’s counsel has made a colorable showing that review of the sealed materials is reasonably necessary to fulfill counsel’s duties of representation to Appellant. This court’s order permits counsel for both parties to examine the materials.

Accordingly, it is by the court on this 17th day of July 2024,

**ORDERED:**

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

Appellate defense counsel and appellate government counsel may view **audio recording of the closed sessions and the corresponding trial transcript pages 225–265; Prosecution Exhibit 3; and Appellate Exhibits X–XVIII, XXVII, XXXII–XXXIII, and XXXVI–XXXVII**, 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

OLGA STANFORD, Capt, USAF  
Commissioner

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

<b>UNITED STATES</b>	)	<b>MERITS BRIEF</b>
<i>Appellee</i>	)	
	)	
v.	)	Before Panel No. 3
	)	
Senior Airman (SrA)	)	No. ACM 40502
<b>FRANKLIN A.T. RICE,</b>	)	
United States Air Force	)	30 July 2024
<i>Appellant</i>	)	

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

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

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force

**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 30 July 2024.

Respectfully submitted,

TREVOR N. WARD, Capt, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
United States Air Force