



DEPARTMENT OF THE AIR FORCE
OFFICE OF THE JUDGE ADVOCATE GENERAL
VICTIMS' COUNSEL DIVISION

11 April 2024

MEMORANDUM FOR ALL REVIEWING AUTHORITIES

FROM: AF/JAJS (Maj Deepa Patel)

SUBJECT: Appellate Victims' Counsel (VC) Notice of Representation – K.T.

1. This notice is to inform you that I represent and have an attorney-client relationship with K.T., a named victim in the case of *United States v. SrA Dustin English*. I am representing K.T. as her Appellate Victims' Counsel.
2. If you have any questions, please contact Maj Deepa Patel at commercial 240-612-4757 or at deepa.patel.1@us.af.mil.


DEEPA M. PATEL, Maj, USAF
Appellate Victims' Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION
<i>Appellee,</i>	)	FOR ENLARGEMENT
	)	OF TIME (FIRST)
v.)	
	)	Before Panel No. 2
Senior Airman (E-4))	
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>	)	9 December 2024

**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 Court’s Rules of Practice and Procedure, Appellant hereby moves for his first enlargement of time to file Assignments of Error. Appellant requests an enlargement for a period of 60 days, which will end on **25 February 2025**. The record of trial was docketed with this Court on 28 October 2024. From the date of docketing to the present date, 42 days have elapsed.¹ On the date requested, 120 days will have elapsed.

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

Respectfully submitted,

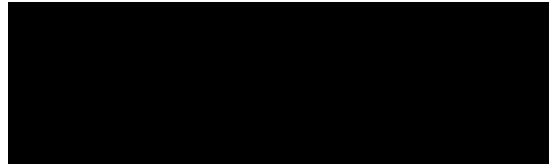


SAMANTHA M. CASTANIEN, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
(240) 612-4770
samantha.castanien.1@us.af.mil

¹ This motion for an enlargement of time is being submitted well in advance to avoid any issues while detailed appellate defense counsel is on leave from 13-21 December 2024.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 9 December 2024.



SAMANTHA M. CASTANIEN, Capt, USAF
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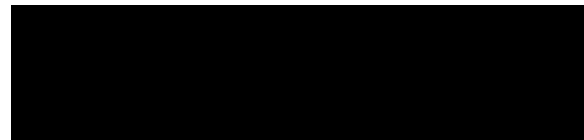
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
Senior Airman (E-4)	)	ACM 40703
DUSTIN C.O. ENGLISH, USAF,)	
<i>Appellant.</i>	)	Panel No.2
)	

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

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

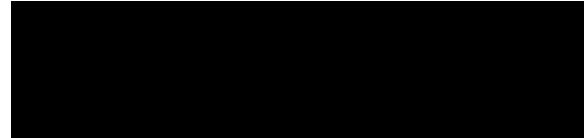
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 9 December 2024.



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

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

UNITED STATES	)	No. ACM 40703
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Dustin C. O. ENGLISH)	
Senior Airman (E-4))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 2

On 9 December 2024, counsel for Appellant submitted a Motion for Enlargement of Time (First) requesting an additional 60 days to submit Appellant’s assignments of error. The Government opposes the motion.

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

Accordingly, it is by the court on this 10th day of December, 2024,

ORDERED:

Appellant’s Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error **not later than 25 February 2025**.

Counsel should not rely on any subsequent requests for enlargement of time being granted. Each request will be considered on its merits.

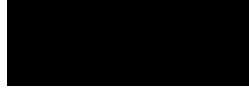
Appellant’s counsel is advised that any subsequent motions for enlargement of time shall include, in addition to the matters required under this court’s Rules of Practice and Procedure, statements as to: (1) whether Appellant was advised of Appellant’s right to a timely appeal, (2) whether Appellant 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. Counsel is not required to re-address item (1) in each subsequent motion for enlargement of time if counsel previously replied in the affirmative.

Counsel may request, and the court may order *sua sponte*, a status conference to facilitate timely processing of this appeal.

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



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

on Action – *United States v. SrA Dustin C. O. English*. The convening authority denied Appellant’s request for deferment of automatic forfeitures, but waived automatic forfeitures for a period of six months for the benefit of Appellant’s dependent. *Id.*

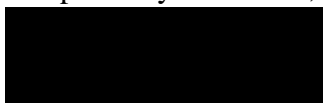
The record of trial is seven volumes consisting of five admitted Prosecution Exhibits, 15 Defense Exhibits, 32 Appellate Exhibits,³ and two Court Exhibits. The transcript is 546 pages. Appellant is currently confined.

Appellant was advised of his right to a timely appeal. Appellant has been provided an update of the status of undersigned counsel’s progress on his case. 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.

Through no fault of Appellant, undersigned counsel has been unable complete her review of Appellant’s case. An enlargement of time is necessary to allow counsel to fully review Appellant’s case and advise him regarding potential errors.

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

Respectfully submitted,

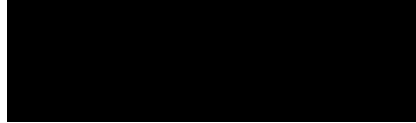


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Appellate Defense Counsel
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³ Three appellate exhibits were reserved for rulings that were later mooted. Exhibit Index at 4-5. While the final appellate exhibit is marked as App. Ex. XXXV, there are 32 appellate exhibits. *Id.* at 4-6.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 10 February 2025.



SAMANTHA M. CASTANIEN, Capt, USAF
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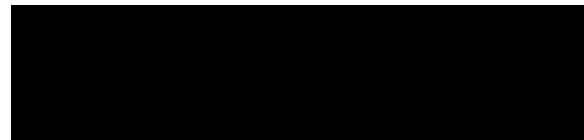
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
Senior Airman (E-4)	)	ACM 40703
DUSTIN C.O. ENGLISH, USAF,)	
<i>Appellant.</i>	)	Panel No.2
)	

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

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

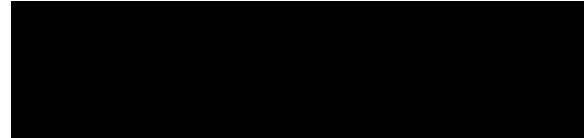
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 12 February 2025.



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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION
<i>Appellee,</i>	)	FOR ENLARGEMENT
	)	OF TIME (THIRD)
v.)	
	)	Before Panel No. 2
Senior Airman (E-4))	
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>	)	17 March 2025

**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 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 **26 April 2025**. The record of trial was docketed with this Court on 28 October 2024. From the date of docketing to the present date, 140 days have elapsed. On the date requested, 180 days will have elapsed.

On 21 February 2024, at a general court-martial convened at Whiteman AFB, Missouri, a military judge, consistent with Appellant’s pleas, found him guilty of the following: one specification of wrongful appropriation, in violation of Article 121, Uniform Code of Military Justice (UCMJ); seven specifications of assault consummated by battery, in violation of Article 128, UCMJ; and eleven specifications of domestic violence, in violation of Article 128b, UCMJ.¹

R. at 1, 231, 233, 237-38, 456, 458. The military judge sentenced Appellant, to be reduced to the grade of E-1, to be reprimanded, to be confined for a total of 40 months (confinement for each month running concurrently),² and to be discharged with a bad conduct discharge. R. at 544.

The convening authority took no action on the findings or sentence. Convening Authority Decision



GRANTED
19 MAR 2025

¹ Three specifications of Article 120, UCMJ, and one specification of Article 128b, UCMJ, were withdrawn and dismissed with prejudice. R. at 231, 460, 545.

² The military judge awarded a total of 414 days of confinement credit. R. at 545.

on Action – *United States v. SrA Dustin C. O. English*. The convening authority denied Appellant’s request for deferment of automatic forfeitures, but waived automatic forfeitures for a period of six months for the benefit of Appellant’s dependent. *Id.*

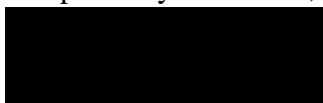
The record of trial is seven volumes consisting of five admitted Prosecution Exhibits, 15 Defense Exhibits, 32 Appellate Exhibits,³ and two Court Exhibits. The transcript is 546 pages. Appellant is currently confined.

Appellant was advised of his right to a timely appeal. Appellant has been provided an update of the status of undersigned counsel’s progress on his case. 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.

Through no fault of Appellant, undersigned counsel has been unable complete her review of Appellant’s case. An enlargement of time is necessary to allow counsel to fully review Appellant’s case and advise him regarding potential errors.

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

Respectfully submitted,

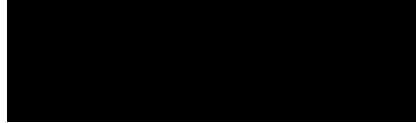


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³ Three appellate exhibits were reserved for rulings that were later mooted. Exhibit Index at 4-5. While the final appellate exhibit is marked as App. Ex. XXXV, there are 32 appellate exhibits. *Id.* at 4-6.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 17 March 2025.



SAMANTHA M. CASTANIEN, Capt, USAF
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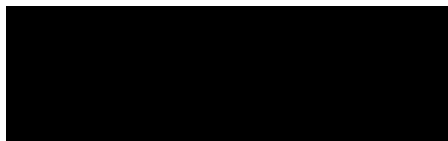
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
	)	Before Panel No. 2
Senior Airman (E-4))	
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>)	
	)	18 March 2025

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

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

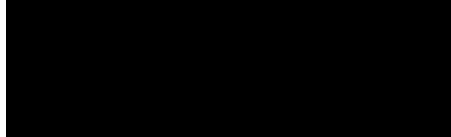
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 18 March 2025.



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

on Action – *United States v. SrA Dustin C. O. English*. The convening authority denied Appellant’s request for deferment of automatic forfeitures, but waived automatic forfeitures for a period of six months for the benefit of Appellant’s dependent. *Id.*

The record of trial is seven volumes consisting of five admitted Prosecution Exhibits, 15 Defense Exhibits, 32 Appellate Exhibits,³ and two Court Exhibits. The transcript is 546 pages. Appellant is currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel provides the following information. Undersigned counsel is currently assigned 37 cases; 20 cases are pending before this Court (17 cases are pending AOE), and 17 cases are pending before the United States Court of Appeals for the Armed Forces (CAAF). To date, undersigned counsel has eight cases prioritized over the present case:

1. *United States v. Kim*, No. ACM 24007 – This AOE was filed on 19 March 2025. Undersigned counsel is awaiting the Government’s Answer and then will determine whether a reply brief is warranted.

2. *United States v. Brown*, No. ACM S32777 – The trial transcript is 133 pages long and the record of trial is three volumes containing nine Prosecution Exhibits, one Defense Exhibit, four Appellate Exhibits, and one Court Exhibit. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

3. *United States v. Thomas*, No. ACM 22083 - The record of trial is four volumes consisting of 14 Prosecution Exhibits, five Defense Exhibits, and 33 Appellate Exhibits. The

³ Three appellate exhibits were reserved for rulings that were later mooted. Exhibit Index at 4-5. While the final appellate exhibit is marked as App. Ex. XXXV, there are 32 appellate exhibits. *Id.* at 4-6.

verbatim transcript is 528 pages. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

4. *United States v. Ziesche*, No. ACM 24022 – The trial transcript is 174 pages long and the record of trial is four volumes comprised of four Prosecution Exhibits, 13 Defense Exhibits, and 16 Appellate Exhibits. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

5. *United States v. Tyson*, No. ACM 40617 – The trial transcript is 1,244 pages long and the electronic record of trial is three volumes containing 25 Prosecution Exhibits, 14 Defense Exhibits, one Court Exhibit, and 71 Appellate Exhibits. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

6. *United States v. Watkins*, No. ACM 40639 - The trial transcript is 519 pages long and the record of trial is five volumes containing 14 Prosecution Exhibits, three Defense Exhibits, 47 Appellate Exhibits, and one Court Exhibit. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

7. *United States v. Kristopik*, No. ACM 40674 - The trial transcript is 1,311 pages long. The electronic record of trial contains 10 Prosecution Exhibits, 20 Defense Exhibits, 118 Appellate Exhibits, and one Court Exhibit. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

8. *United States v. Stone*, No. ACM S32797 - The trial transcript is 105 pages long and the electronic ROT is one volume of 386 pages. There are three Prosecution Exhibits, five Defense Exhibits, and four Appellate Exhibits. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

Appellant was advised of his right to a timely appeal. Appellant has been provided an update of the status of undersigned counsel's progress on his case. 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.

Through no fault of Appellant, undersigned counsel has been unable complete her review of Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise him regarding potential errors.

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

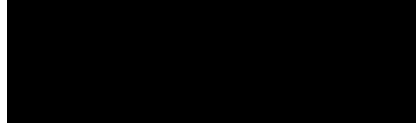
Respectfully submitted,



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CERTIFICATE OF FILING AND SERVICE

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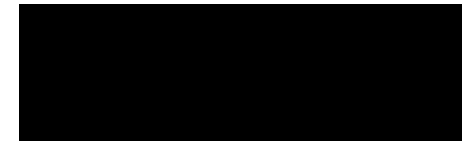
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UNITED STATES,)	UNITED STATES' GENERAL
<i>Appellee,</i>)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
Senior Airman (E-4)	)	Before Panel No. 2
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>	)	16 April 2025

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

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

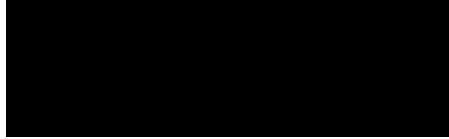
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 16 April 2025.



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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION
<i>Appellee,</i>	)	FOR ENLARGEMENT
	)	OF TIME (FIFTH)
v.)	
	)	Before Panel No. 2
Senior Airman (E-4))	
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>	)	11 May 2025

**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 Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time (EOT) to file Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **25 June 2025**. The record of trial was docketed with this Court on 28 October 2024. From the date of docketing to the present date, 195 days have elapsed. On the date requested, 240 days will have elapsed.

On 21 February 2024, at a general court-martial convened at Whiteman AFB, Missouri, a military judge, consistent with Appellant’s pleas, found him guilty of the following: one specification of wrongful appropriation, in violation of Article 121, Uniform Code of Military Justice (UCMJ); seven specifications of assault consummated by battery, in violation of Article 128, UCMJ; and eleven specifications of domestic violence, in violation of Article 128b, UCMJ.¹

R. at 1, 231, 233, 237-38, 456, 458. The military judge sentenced Appellant, to be reduced to the grade of E-1, to be reprimanded, to be confined for a total of 40 months (confinement for each specification running concurrently),² and to be discharged with a bad conduct discharge. R. at 544.

The convening authority took no action on the findings or sentence. Convening Authority Decision



GRANTED

14 MAY 2025

¹ Three specifications of Article 120, UCMJ, and one specification of Article 128b, UCMJ, were withdrawn and dismissed with prejudice. R. at 231, 460, 545.

² The military judge awarded a total of 414 days of confinement credit. R. at 545.

on Action – *United States v. SrA Dustin C. O. English*. The convening authority denied Appellant’s request for deferment of automatic forfeitures, but waived automatic forfeitures for a period of six months for the benefit of Appellant’s dependent. *Id.*

The record of trial is seven volumes consisting of five admitted Prosecution Exhibits, 15 Defense Exhibits, 32 Appellate Exhibits,³ and two Court Exhibits. The transcript is 546 pages. Appellant is currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel provides the following information. Undersigned counsel is currently assigned 37 cases; 19 cases are pending before this Court (15 cases are pending AOE), and 18 cases are pending before the United States Court of Appeals for the Armed Forces (CAAF). To date, undersigned counsel has six cases prioritized over the present case:

1. *United States v. Ziesche*, No. ACM 24022 – Undersigned counsel has completed her review of the record and is drafting the AOE for this case, due to the Court by 24 May 2025.

2. *United States v. Thomas*, No. ACM 22083 - The record of trial is four volumes consisting of 14 Prosecution Exhibits, five Defense Exhibits, and 33 Appellate Exhibits. The verbatim transcript is 528 pages. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

3. *United States v. Tyson*, No. ACM 40617 – The trial transcript is 1,244 pages long and the electronic record of trial is three volumes containing 25 Prosecution Exhibits, 14 Defense Exhibits, one Court Exhibit, and 71 Appellate Exhibits. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

³ Three appellate exhibits were reserved for rulings that were later mooted. Exhibit Index at 4-5. While the final appellate exhibit is marked as App. Ex. XXXV, there are 32 appellate exhibits. *Id.* at 4-6.

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5. *United States v. Kristopik*, No. ACM 40674 - The trial transcript is 1,311 pages long. The electronic record of trial contains 10 Prosecution Exhibits, 20 Defense Exhibits, 118 Appellate Exhibits, and one Court Exhibit. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

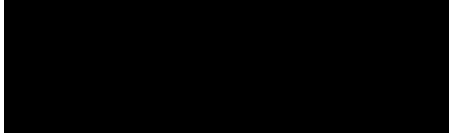
6. *United States v. Stone*, No. ACM S32797 – On 6 May 2025, this appellant elected to withdraw from appellant review after conferring with undersigned counsel. Unless and until this Court approves this appellant’s motion to withdraw from appellate review, this case remains prioritized over Appellant’s.

Appellant was advised of his right to a timely appeal. Appellant has been provided an update of the status of undersigned counsel’s progress on his case. 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.

Through no fault of Appellant, undersigned counsel has been unable complete her review of Appellant’s case. An enlargement of time is necessary to allow counsel to fully review Appellant’s case and advise him regarding potential errors.

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

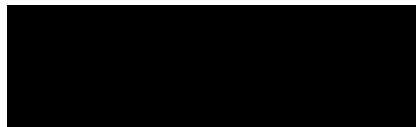
Respectfully submitted,



SAMANTHA M. CASTANIEN, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
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(240) 612-4770
samantha.castanien.1@us.af.mil

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 11 May 2025.



SAMANTHA M. CASTANIEN, Capt, USAF
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Air Force Appellate Defense Division
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Office: (240) 612-4770
Email: samantha.castanien.1@us.af.mil

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 2
Senior Airman (E-4))	
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force.)	
<i>Appellant</i>	)	13 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.

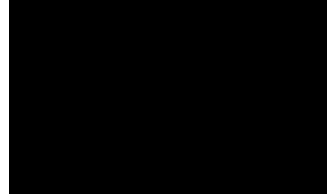
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 13 May 2025.



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



DEPARTMENT OF THE AIR FORCE
OFFICE OF THE JUDGE ADVOCATE GENERAL
VICTIMS' COUNSEL DIVISION

16 June 2025

MEMORANDUM FOR ALL REVIEWING AUTHORITIES

FROM: AF/JAJS (Maj Matthew A. Pellegrine)

SUBJECT: Appellate Victims' Counsel (VC) Notice of Representation – K.T.

1. This notice is to inform you that I represent and have an attorney-client relationship with K.T., a named victim in the case of *United States v. SrA Dustin English*. I am representing K.T. as her Appellate Victims' Counsel.
2. If you have any questions, please contact me at (240) 278-7016 or at matthew.pellegrine.1@us.af.mil.

MAT [REDACTED] aj, USAF
Appellate Victims' Counsel

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION
<i>Appellee,</i>	)	FOR ENLARGEMENT
	)	OF TIME (SIXTH)
v.)	
	)	Before Panel No. 2
Senior Airman (E-4))	
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>	)	10 June 2025

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

Pursuant to Rule 23.3(m)(3) and (6) of this Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time (EOT) to file Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **25 July 2025**. The record of trial was docketed with this Court on 28 October 2024. From the date of docketing to the present date, 225 days have elapsed. On the date requested, 270 days will have elapsed.

On 21 February 2024, at a general court-martial convened at Whiteman AFB, Missouri, a military judge, consistent with Appellant’s pleas, found him guilty of the following: one specification of wrongful appropriation, in violation of Article 121, Uniform Code of Military Justice (UCMJ); seven specifications of assault consummated by battery, in violation of Article 128, UCMJ; and eleven specifications of domestic violence, in violation of Article 128b, UCMJ.¹

R. at 1, 231, 233, 237-38, 456, 458. The military judge sentenced Appellant, to be reduced to the grade of E-4, to be reprimanded, to be confined for a total of 40 months (confinement for each month running concurrently),² and to be discharged with a bad conduct discharge. R. at 544.



GRANTED

20 JUN 2025

¹ Three specifications of Article 120, UCMJ, and one specification of Article 128b, UCMJ, were withdrawn and dismissed with prejudice. R. at 231, 460, 545.
² The military judge awarded a total of 414 days of confinement credit. R. at 545.

on Action – *United States v. SrA Dustin C. O. English*. The convening authority denied Appellant’s request for deferment of automatic forfeitures, but waived automatic forfeitures for a period of six months for the benefit of Appellant’s dependent. *Id.*

The record of trial is seven volumes consisting of five admitted Prosecution Exhibits, 15 Defense Exhibits, 32 Appellate Exhibits,³ and two Court Exhibits. The transcript is 546 pages. Appellant is currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel provides the following information. Undersigned counsel is currently assigned 37 cases; 19 cases are pending before this Court (14 cases are pending AOE), and 18 cases are pending before the United States Court of Appeals for the Armed Forces (CAAF). To date, undersigned counsel has four cases prioritized over the present case:

1. *United States v. Thomas*, No. ACM 22083 - The record of trial is four volumes consisting of 14 Prosecution Exhibits, five Defense Exhibits, and 33 Appellate Exhibits. The verbatim transcript is 528 pages. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

2. *United States v. Watkins*, No. ACM 40639 - The trial transcript is 519 pages long and the record of trial is five volumes containing 14 Prosecution Exhibits, three Defense Exhibits, 47 Appellate Exhibits, and one Court Exhibit. This appellant is not currently confined. Since Appellant’s last EOT request, undersigned has completed her review of this appellant’s record and is advising and coordinating with this appellant on any AOE.

³ Three appellate exhibits were reserved for rulings that were later mooted. Exhibit Index at 4-5. While the final appellate exhibit is marked as App. Ex. XXXV, there are 32 appellate exhibits. *Id.* at 4-6.

3. *United States v. Tyson*, No. ACM 40617 – The trial transcript is 1,244 pages long and the electronic record of trial is three volumes containing 25 Prosecution Exhibits, 14 Defense Exhibits, one Court Exhibit, and 71 Appellate Exhibits. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

4. *United States v. Kristopik*, No. ACM 40674 - The trial transcript is 1,311 pages long. The electronic record of trial contains 10 Prosecution Exhibits, 20 Defense Exhibits, 118 Appellate Exhibits, and one Court Exhibit. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

Appellant was advised of his right to a timely appeal. Appellant has been provided an update of the status of undersigned counsel's progress on his case. 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.

Through no fault of Appellant, undersigned counsel has been unable complete her review of Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise him regarding potential errors.

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

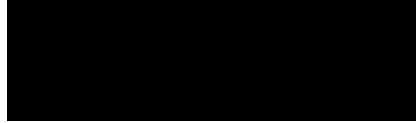
Respectfully submitted,

A black rectangular redaction box covering the signature of Samantha M. Castanien.

SAMANTHA M. CASTANIEN, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
(240) 612-4770
samantha.castanien.1@us.af.mil

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 10 June 2025.



SAMANTHA M. CASTANIEN, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
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Office: (240) 612-4770
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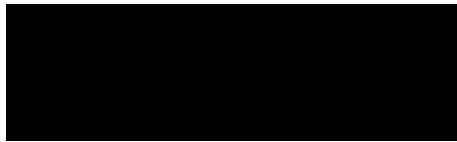
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES' OUT OF TIME
<i>Appellee,</i>	)	GENERAL OPPOSITION TO
	)	APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
)	
Senior Airman (E-4)	)	Before Panel No. 2
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>	)	18 June 2025

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

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

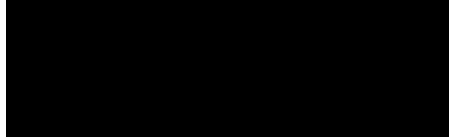
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 18 June 2025.



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

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

UNITED STATES	)	No. ACM 40703
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Dustin C. O. ENGLISH)	
Senior Airman (E-4))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 2

On 14 July 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Seventh), requesting an additional 30 days to submit Appellant's assignments of error. The Government opposes the motion.

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

Accordingly, it is by the court on this 16th day of July, 2025,

ORDERED:

Appellant's Motion for Enlargement of Time (Seventh) is **GRANTED**. Appellant shall file any assignments of error not later than **24 August 2025**.

Further requests by Appellant for enlargements of time may necessitate a status conference.



Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	APPELLANT’S MOTION
	)	FOR ENLARGEMENT
	)	OF TIME (SEVENTH)
v.)	
	)	Before Panel No. 2
Senior Airman (E-4))	
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>	)	14 July 2025

**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 Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time (EOT) to file Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **24 August 2025**. The record of trial was docketed with this Court on 28 October 2024. From the date of docketing to the present date, 259 days have elapsed. On the date requested, 300 days will have elapsed.

On 21 February 2024, at a general court-martial convened at Whiteman AFB, Missouri, a military judge, consistent with Appellant’s pleas, found him guilty of the following: one specification of wrongful appropriation, in violation of Article 121, Uniform Code of Military Justice (UCMJ); seven specifications of assault consummated by battery, in violation of Article 128, UCMJ; and eleven specifications of domestic violence, in violation of Article 128b, UCMJ.¹ R. at 1, 231, 233, 237-38, 456, 458. The military judge sentenced Appellant, to be reduced to the grade of E-1, to be reprimanded, to be confined for a total of 40 months (confinement for each specification running concurrently),² and to be discharged with a bad conduct discharge. R. at 544. The convening authority took no action on the findings or sentence. Convening Authority Decision

¹ Three specifications of Article 120, UCMJ, and one specification of Article 128b, UCMJ, were withdrawn and dismissed with prejudice. R. at 231, 460, 545.
² The military judge awarded a total of 414 days of confinement credit. R. at 545.

on Action – *United States v. SrA Dustin C. O. English*. The convening authority denied Appellant’s request for deferment of automatic forfeitures, but waived automatic forfeitures for a period of six months for the benefit of Appellant’s dependent. *Id.*

The record of trial is seven volumes consisting of five admitted Prosecution Exhibits, 15 Defense Exhibits, 32 Appellate Exhibits,³ and two Court Exhibits. The transcript is 546 pages. Appellant is currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel provides the following information. Undersigned counsel is currently assigned 41 cases; 19 cases are pending before this Court (14 cases are pending AOE), 21 cases are pending before the United States Court of Appeals for the Armed Forces (CAAF) (including one supplement to a petition for grant of review), and one case is pending before the United States Supreme Court (for petition for writ of certiorari). Since Appellant’s last EOT request, undersigned counsel completed briefing in *United States v. Ziesche*, No. ACM 24022, filed the AOE in *United States v. Thomas*, No. ACM 22083, and filed a petition for reconsideration—and a response to the Government’s opposition—in *United States v. Johnson*, USCA Dkt. No. 24-0004/SF. To date, undersigned counsel has two cases prioritized over the present case:

1. *United States v. Tyson*, No. ACM 40617 – The trial transcript is 1,244 pages long and the electronic record of trial is three volumes containing 25 Prosecution Exhibits, 14 Defense Exhibits, one Court Exhibit, and 71 Appellate Exhibits. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

³ Three appellate exhibits were reserved for rulings that were later mooted. Exhibit Index at 4-5. While the final appellate exhibit is marked as App. Ex. XXXV, there are 32 appellate exhibits. *Id.* at 4-6.

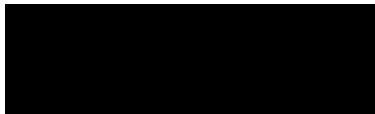
2. *United States v. Kristopik*, No. ACM 40674 - The trial transcript is 1,311 pages long. The electronic record of trial contains 10 Prosecution Exhibits, 20 Defense Exhibits, 118 Appellate Exhibits, and one Court Exhibit. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial.

Appellant was advised of his right to a timely appeal. Appellant has been provided an update of the status of undersigned counsel's progress on his case. 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.

Through no fault of Appellant, undersigned counsel has been unable complete her review of Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise him regarding potential errors.

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

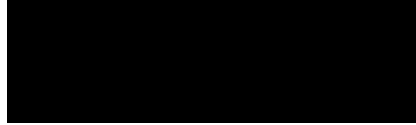
Respectfully submitted,



SAMANTHA M. CASTANIEN, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
(240) 612-4770
samantha.castanien.1@us.af.mil

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division on 14 July 2025.



SAMANTHA M. CASTANIEN, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
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Office: (240) 612-4770
Email: samantha.castanien.1@us.af.mil

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES'
<i>Appellee,</i>	)	OPPOSITION TO
	)	APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
)	
	)	Before Panel No. 2
Senior Airman (E-4))	
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>)	
	)	15 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 out of time 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.

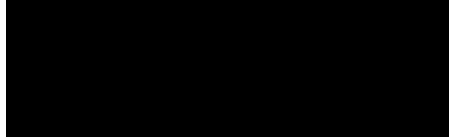
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 15 July 2025.



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

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

UNITED STATES	)	No. ACM 40703
<i>Appellee</i>)	
)	
v.)	
	)	NOTICE OF PANEL CHANGE
Dustin C.O. ENGLISH)	
Senior Airman (E-4))	
U.S. Air Force)	
<i>Appellant</i>)	

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

ORDERED:

That the Record of Trial in the above-styled matter is withdrawn from Panel 2 and referred to Panel 3 for appellate review.

This panel letter supersedes all previous panel assignments.



FOR THE COURT

[Redacted signature block]

A
Commissioner

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

UNITED STATES <i>Appellee</i>	)	No. ACM 40703
)	
)	
v.)	
	)	ORDER
Dustin C. ENGLISH Senior Airman (E-4) U.S. Air Force <i>Appellant</i>)	
)	
	)	Panel 3

On 11 August 2025, 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, prior filings in this case, case law, and this court’s Rules of Practice and Procedure.

Accordingly, it is by the court on this 12th day of August, 2025,

ORDERED:

Appellant’s Motion for Enlargement of Time (Eighth) is **GRANTED**. Appellant shall file any assignments of error not later than **23 September 2025**.

Further requests by Appellant for enlargements of time may necessitate a status conference.



FOR THE COURT

[Redacted signature block]

A
Commissioner

F

The convening authority took no action on the findings or sentence. Convening Authority Decision on Action – *United States v. SrA Dustin C. O. English*. The convening authority denied Appellant’s request for deferment of automatic forfeitures, but waived automatic forfeitures for a period of six months for the benefit of Appellant’s dependent. *Id.*

The record of trial is seven volumes consisting of five admitted Prosecution Exhibits, 15 Defense Exhibits, 32 Appellate Exhibits,³ and two Court Exhibits. The transcript is 546 pages. Appellant is not currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel provides the following information. Undersigned counsel is currently assigned 34 cases; 15 cases are pending before this Court (10 cases are pending AOE), 6 cases are pending before the United States Court of Appeals for the Armed Forces (CAAF) (including one supplement to a petition for grant of review), and 13 cases are pending before the United States Supreme Court (all pending filing a petition for a writ of certiorari). Since Appellant’s last EOT request, undersigned counsel completed review of *United States v. Tyson*, No. ACM 40617, a 3,099-page electronic record of trial. To date, undersigned counsel has three cases prioritized over the present case:

1. *United States v. Tyson*, No. ACM 40617 – Having completed review of this record, undersigned counsel is currently working the AOE. She has drafted five of the anticipated eleven issues and is coordinating with this appellant on any issues he would like to personally raise. The AOE will be submitted to this Court by the end of August.

2. *United States v. Marin Perez*, USCA Dkt. No. ___ - ___/AF – Undersigned counsel submitted the petition for grant of review in this case on 8 August 2025. Undersigned counsel

³ Three appellate exhibits were reserved for rulings that were later mooted. Exhibit Index at 4-5. While the final appellate exhibit is marked as App. Ex. XXXV, there are 32 appellate exhibits. *Id.* at 4-6.

requested additional time to complete the supplement to the petition; this motion is still pending with the CAAF. Undersigned counsel anticipates completing this short one-issue supplement after *Tyson* and then moving directly to the next AOE. Undersigned counsel does not anticipate working on any of the cases before the Supreme Court until she reviews the case listed below.

3. *United States v. Kristopik*, No. ACM 40674 - The trial transcript is 1,311 pages long. The electronic record of trial contains 10 Prosecution Exhibits, 20 Defense Exhibits, 118 Appellate Exhibits, and one Court Exhibit. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial. However, civilian appellate defense counsel has completed review and drafted an AOE. This appellant has not waived undersigned counsel's review of the record, and thus undersigned counsel intends to review this record as soon as possible, to include before moving to any of the Supreme Court petitions.

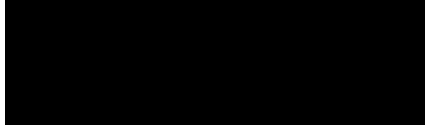
On top of the three priorities listed above, undersigned counsel will also be doing oral argument on 8 October 2025 for *United States v. Braum*, USCA Dkt. No. 25-0046/AF. Undersigned counsel anticipates being able to draft and format the various Supreme Court petitions while preparing for oral argument.

Appellant was advised of his right to a timely appeal. Appellant has been provided an update of the status of undersigned counsel's progress on his case. 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.

Through no fault of Appellant, undersigned counsel has been unable complete her review of Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise him regarding potential errors.

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

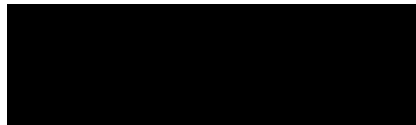
Respectfully submitted,



SAMANTHA M. CASTANIEN, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
(240) 612-4770
samantha.castanien.1@us.af.mil

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims' Counsel for K.T. on 11 August 2025.



SAMANTHA M. CASTANIEN, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604
Office: (240) 612-4770
Email: samantha.castanien.1@us.af.mil

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES'
<i>Appellee,</i>	)	OPPOSITION TO
	)	APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
)	
	)	Before Panel No. 3
Senior Airman (E-4))	
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>)	
	)	11 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 out of time opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 330 days in length. Appellant's nearly year long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two thirds of the 18 month standard for this Court to issue a decision, which only leaves about 7 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not completed review of the record of trial at this late stage of the appellate process.

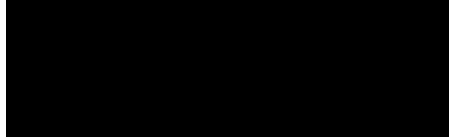
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 11 August 2025.



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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	CONSENT MOTION
<i>Appellee,</i>	)	TO AMEND PLEADING
)	
v.)	
	)	Before Panel No. 3
Senior Airman (E-4))	
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>	)	11 September 2025

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

Pursuant to Rule 23.3(n) of this Court’s Rules of Practice and Procedure, Appellant hereby moves to amend his motion for a ninth enlargement of time (EOT), submitted on 10 September 2025, due to two substantive changes in undersigned counsel’s priority list. The Government consents to this motion to amend.

As of today, one of the cases that was listed in yesterday’s EOT filing has been removed from undersigned counsel’s docket. Specifically, undersigned counsel is no longer responsible for the petition for a writ of certiorari in *United States v. Lampkins*, USCA Dkt. No. 24-0069/AF. Rule 23.3(m)(6) requires “a detailed explanation of the number and complexity of counsel’s pending cases; [and] a statement of other matters that have priority over the subject case” Due to this unexpected shift in caseload, now only three cases are prioritized above Appellant’s. Additionally, undersigned counsel is no longer arguing *United States v. Braum*, USCA Dkt. No. 25-0046/AF; civilian appellate defense counsel is. This removed another priority above Appellant’s case.

A corrected copy of pages 2-6 of Appellant’s Motion for Enlargement of Time (Ninth) reflects significant substantive changes are attached to this motion to amend as an Appellant’s case.



GRANTED
16 SEP 2025

WHEREFORE, this Court should grant this consent motion to amend pleading.

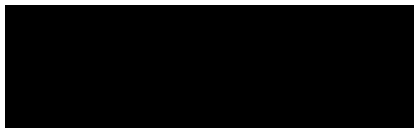
Respectfully submitted,



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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims' Counsel for K.T. on 11 September 2025.



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APPENDIX

The convening authority took no action on the findings or sentence. Convening Authority Decision on Action – *United States v. SrA Dustin C. O. English*. The convening authority denied Appellant’s request for deferment of automatic forfeitures, but waived automatic forfeitures for a period of six months for the benefit of Appellant’s dependent. *Id.*

The record of trial is seven volumes consisting of five admitted Prosecution Exhibits, 15 Defense Exhibits, 32 Appellate Exhibits,³ and two Court Exhibits. The transcript is 546 pages. Appellant is not currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel provides the following information. Undersigned counsel is currently assigned 21 cases; 13 cases are pending before this Court (7 cases are pending AOE), 5 cases are pending before the United States Court of Appeals for the Armed Forces (CAAF) (two cases are pending action on petitions for reconsideration), and 3 cases are pending before the Supreme Court of the United States (all pending filing an individual petition for a writ of certiorari). Within the next month, two more cases are anticipated to move from pending at the CAAF to pending before the Supreme Court. These clients will also have individualized petitions for writs of certiorari.

Since Appellant’s last request for an EOT, undersigned counsel filed an eleven-issue AOE in *United States v. Tyson*, No. ACM 40617, filed the supplement to the petition for grant of review in *United States v. Marin Perez*, USCA Dkt. No. 25-0238/AF, responded to the Government’s petition for reconsideration in *United States v. Folts*, USCA Dkt. No. 25-0043/AF, filed a petition for reconsideration in *United States v. Casillas*, USCA Dk. No. 24-0089/AF, and conducted turnover on a number of cases relating to *United States v. Johnson*, USCA Dk. No. 24-0004/SF,

³ Three appellate exhibits were reserved for rulings that were later mooted. Exhibit Index at 4-5. While the final appellate exhibit is marked as App. Ex. XXXV, there are 32 appellate exhibits. *Id.* at 4-6.

that were pending before the Supreme Court (removing approximately nine cases from undersigned counsel's docket). The remaining cases undersigned counsel has pending before the Supreme Court are for individual clients, all on distinct issues.

To date, undersigned counsel has three cases prioritized over the present case:

1. *United States v. Kristopik*, No. ACM 40674 - The trial transcript is 1,311 pages long. The electronic record of trial contains 10 Prosecution Exhibits, 20 Defense Exhibits, 118 Appellate Exhibits, and one Court Exhibit. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial. However, civilian appellate defense counsel has completed review and drafted an AOE. This appellant has not waived undersigned counsel's review of the record, and thus undersigned counsel intends to review this record as soon as possible. This AOE is due 7 October 2025.

2. *United States v. Tyson*, No. ACM 40617 – The Government's answer to this appellant's AOE is due in early October. Undersigned counsel will likely work on the reply brief before turning to Appellant's case, thus it is included in this prioritization list.

3. *United States v. Baumgartner*, Application No. 25A241 (before the Supreme Court) – The CAAF denied review of this case on 20 June 2025. This case is now pending a one-issue petition for a writ of certiorari before the Supreme Court. This appellant was previously represented by a civilian counsel, but before the Supreme Court, undersigned counsel is his only representation.⁴

⁴ Appellate review “spans a continuum of process” where an appellant has the right to effective representation through the entire period of review, from the end of trial to a decision by the Supreme Court. *See Diaz v. JAG of the Navy*, 59 M.J. 34, 37 (C.A.A.F. 2003) (articulating this right to representation up to the CAAF); 28 U.S.C. § 1259 (codifying an appellant's right to seek review at the Supreme Court); 10 U.S.C. § 870 (codifying an appellant's right to have free military appellate defense counsel representation at the Supreme Court). There is no break in counsel at

From the date of the decision, this appellant has 90 days to file a petition for a writ of certiorari to the Supreme Court. 28 U.S.C. § 1259(3); Supreme Court Rule 13(1). Due to various other case priorities, to include cases pending before this Court, undersigned counsel requested a 60-day extension. Supreme Court Rule 13(5). The Chief Justice granted an extension on the filing deadline to 17 November 2025. To meet this deadline, undersigned counsel must complete the petition before the end of October 2025.

Supreme Court petitions have very specific formatting and content requirements. Supreme Court Rule 33. Additionally, much like a supplement to a petition for grant of review at the CAAF, a petition for a writ of certiorari is not a carbon copy of what was submitted to the CAAF; the filing must be adjusted, often rewritten, and then painstakingly reformatted to fit the Court's requirements. Additional drafting time is required to meet these constraints, along with additional time for printing the forty required booklets. *See* Supreme Court Rule 12 (dictating the number of copies required). Built into this timeline is also the Appellate Defense Division's internal review process. "Review" is a reference to peer and leadership review, a Division requirement for every substantive filing. Peer review is when another appellate defense counsel reviews the first final draft of the filing and provides feedback and edits. Leadership review is when a member of Division leadership reviews the new version of the final draft and provides feedback and edits. This required process can take anywhere between a few days to over a full week depending on the case and the workload of the Division. Thus, while the filing deadline is in mid-November, the logistical process of putting together a Supreme Court petition, to include researching and drafting,

each phase of review; an appellant is entitled to counsel through the entire period. *Diaz*, 59 M.J. at 37.

is over a month long. Based on timing, undersigned counsel anticipates starting review of Appellant's case as she sends the petition for *Baumgartner* through review.

On top of the three priorities listed above, undersigned counsel will be attending oral argument on 8 October 2025 for *United States v. Braum*, USCA Dkt. No. 25-0046/AF, at Wake Forest University School of Law in North Carolina. From 7-8 October 2025, undersigned counsel will not be working on other cases as she assists her civilian co-counsel with oral argument.

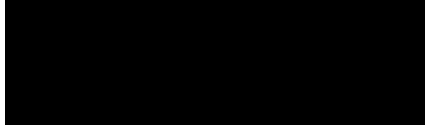
Undersigned counsel is tracking that this Court issued an order in this case on 10 December 2024 stating, “[A]ny future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, will not be granted absent exceptional circumstances.” Order at 2, Dec. 10, 2024. In light of undersigned counsel's docket, undersigned counsel anticipates needing *at least* one additional EOT, that, if granted, would expire more than 360 days after the date of docketing. Undersigned counsel desires to complete review of Appellant's case as soon as possible but has been unable to do so to her high workload. Whether that high workload constitutes “exceptional circumstances” is a question for this Court to resolve. Nevertheless, Appellant desires the assistance of undersigned counsel in his appeal and good cause exists to grant this EOT.

Appellant was advised of his right to a timely appeal. Appellant has been provided an update of the status of undersigned counsel's progress on his case. 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.

Through no fault of Appellant, undersigned counsel has been unable complete her review of Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise him regarding potential errors.

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

Respectfully submitted,



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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	APPELLANT’S MOTION
<i>Appellee,</i>	)	FOR ENLARGEMENT
	)	OF TIME (NINTH)
v.)	
	)	Before Panel No. 3
Senior Airman (E-4))	
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>	)	10 September 2025

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

Pursuant to Rule 23.3(m)(3) and (6) of this Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time (EOT) to file Assignments of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **23 October 2025**. The record of trial was docketed with this Court on 28 October 2024. From the date of docketing to the present date, 317 days have elapsed. On the date requested, 360 days will have elapsed.

On 21 February 2024, at a general court-martial convened at Whiteman AFB, Missouri, a military judge, consistent with Appellant’s pleas, found him guilty of the following: one specification of wrongful appropriation, in violation of Article 121, Uniform Code of Military Justice (UCMJ); seven specifications of assault consummated by battery, in violation of Article 128, UCMJ; and eleven specifications of domestic violence, in violation of Article 128b, UCMJ.¹



3, 237-38, 456, 458. The military judge sentenced Appellant, to be reduced to the grade of E-4, to be reprimanded, to be confined for a total of 40 months (confinement for each month of confinement concurrently),² and to be discharged with a bad-conduct discharge. R. at 544.

GRANTED
16 SEP 2025

¹ Three specifications of Article 120, UCMJ, and one specification of Article 128b, UCMJ, were withdrawn and dismissed with prejudice. R. at 231, 460, 545.

² The military judge awarded a total of 414 days of confinement credit. R. at 545.

The convening authority took no action on the findings or sentence. Convening Authority Decision on Action – *United States v. SrA Dustin C. O. English*. The convening authority denied Appellant’s request for deferment of automatic forfeitures, but waived automatic forfeitures for a period of six months for the benefit of Appellant’s dependent. *Id.*

The record of trial is seven volumes consisting of five admitted Prosecution Exhibits, 15 Defense Exhibits, 32 Appellate Exhibits,³ and two Court Exhibits. The transcript is 546 pages. Appellant is not currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel provides the following information. Undersigned counsel is currently assigned 22 cases; 13 cases are pending before this Court (7 cases are pending AOE), 5 cases are pending before the United States Court of Appeals for the Armed Forces (CAAF) (two cases are pending action on petitions for reconsideration), and 4 cases are pending before the Supreme Court of the United States (all pending filing an individual petition for a writ of certiorari). Within the next month, two more cases are anticipated to move from pending at the CAAF to pending before the Supreme Court. These clients will also have individualized petitions for writs of certiorari.

Since Appellant’s last request for an EOT, undersigned counsel filed an eleven-issue AOE in *United States v. Tyson*, No. ACM 40617, filed the supplement to the petition for grant of review in *United States v. Marin Perez*, USCA Dkt. No. 25-0238/AF, responded to the Government’s petition for reconsideration in *United States v. Folts*, USCA Dkt. No. 25-0043/AF, filed a petition for reconsideration in *United States v. Casillas*, USCA Dk. No. 24-0089/AF, and conducted turnover on a number of cases relating to *United States v. Johnson*, USCA Dk. No. 24-0004/SF,

³ Three appellate exhibits were reserved for rulings that were later mooted. Exhibit Index at 4-5. While the final appellate exhibit is marked as App. Ex. XXXV, there are 32 appellate exhibits. *Id.* at 4-6.

that were pending before the Supreme Court (removing approximately eight cases from undersigned counsel's docket). The remaining cases undersigned counsel has pending before the Supreme Court are for individual clients, all on distinct issues.

To date, undersigned counsel has four cases prioritized over the present case:

1. *United States v. Kristopik*, No. ACM 40674 - The trial transcript is 1,311 pages long. The electronic record of trial contains 10 Prosecution Exhibits, 20 Defense Exhibits, 118 Appellate Exhibits, and one Court Exhibit. This appellant is not currently confined. Undersigned has not yet completed her review of the record of trial. However, civilian appellate defense counsel has completed review and drafted an AOE. This appellant has not waived undersigned counsel's review of the record, and thus undersigned counsel intends to review this record as soon as possible.

2. *United States v. Lampkins*, USCA Dkt. No. 24-0069/AF – This was a trailer case to *Johnson, supra*. CAAF issued a decision in *Lampkins* on 22 July 2025. *United States v. Lampkins*, __ M.J. __, No. 24-0069/AF, 2025 LX 255717 (C.A.A.F. July 22, 2025). From the date of the decision, this appellant has 90 days to file a petition for a writ of certiorari to the Supreme Court. 28 U.S.C. § 1259(3); Supreme Court Rule 13(1). Since mid-July, when the CAAF denied the petition for reconsideration in *Johnson (United States v. Johnson, __ M.J. __, No. 24-0004/SF, 2025 LX 251994 (C.A.A.F. July 14, 2025))*, undersigned counsel has been advising approximately eleven clients that were affected by *Johnson*. Since Appellant's last EOT, undersigned counsel transferred six clients to another appellate defense counsel for the purposes of a joint petition to the Supreme Court. But this appellant did not transfer, and undersigned counsel has not begun work on his petition for a writ of certiorari. Due to the issue being raised in this case, undersigned counsel does not expect to request a 60-day extension to file the petition. Supreme Court Rule

13(5). Thus, undersigned counsel must file the petition by 20 October 2025. To do so, undersigned counsel must complete the petition before the end of September 2025.

Supreme Court petitions have very specific formatting and content requirements. Supreme Court Rule 33. Additionally, much like a supplement to a petition for grant of review at the CAAF, a petition for a writ of certiorari is not a carbon copy of what was submitted to the CAAF; the filing must be adjusted, often rewritten, and then painstakingly reformatted to fit the Court's requirements. Additional drafting time is required to meet these constraints, along with additional time for printing the forty required booklets. *See* Supreme Court Rule 12 (dictating the number of copies required). Built into this timeline is also the Appellate Defense Division's internal review process. "Review" is a reference to peer and leadership review, a Division requirement for every substantive filing. Peer review is when another appellate defense counsel reviews the first final draft of the filing and provides feedback and edits. Leadership review is when a member of Division leadership reviews the new version of the final draft and provides feedback and edits. This required process can take anywhere between a few days to over a full week depending on the case and the workload of the Division. Thus, while the filing deadline is in mid-October, the logistical process of putting together a Supreme Court petition, to include researching and drafting, is over a month long.

3. *United States v. Tyson*, No. ACM 40617 – The Government's answer to this appellant's AOE is due in early October. Undersigned counsel will likely work on the reply brief before turning to Appellant's case, thus it is included in this prioritization list.

4. *United States v. Baumgartner*, Application No. 25A241 (before the Supreme Court) – This case is pending a one-issue petition for a writ of certiorari before the Supreme Court. The Chief Justice granted an extension on the filing deadline to 17 November 2025. But, as with

Lampkins, the formatting and printing requirements for this case mean that the briefing and formatting must be accomplished by the end of October. This appellant was previously represented by a civilian counsel, but before the Supreme Court, undersigned counsel is his only representation.⁴

On top of the four priorities listed above, it is currently anticipated that undersigned counsel will be doing oral argument on 8 October 2025 for *United States v. Braum*, USCA Dkt. No. 25-0046/AF. But this is subject to change in light of undersigned counsel's priority list. Regardless, undersigned counsel will be attending this argument, which is at Wake Forest University School of Law in North Carolina.

Undersigned counsel is tracking that this Court issued an order in this case on 10 December 2024 stating, “[A]ny future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, will not be granted absent exceptional circumstances.” Order at 2, Dec. 10, 2024. In light of undersigned counsel's docket, undersigned counsel anticipates needing *at least* one additional EOT, that, if granted, would expire more than 360 days after the date of docketing. Undersigned counsel desires to complete review of Appellant's case as soon as possible but has been unable to do so to her high workload. Whether that high workload constitutes “exceptional circumstances” is a question for this Court to resolve. Nevertheless, Appellant desires the assistance of undersigned counsel in his appeal and good cause exists to grant this EOT.

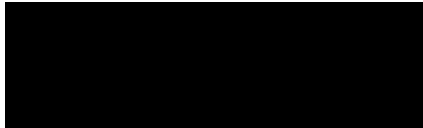
⁴ Appellate review “spans a continuum of process” where an appellant has the right to effective representation through the entire period of review, from the end of trial to a decision by the Supreme Court. *See Diaz v. JAG of the Navy*, 59 M.J. 34, 37 (C.A.A.F. 2003) (articulating this right to representation up to the CAAF); 28 U.S.C. § 1259 (codifying an appellant's right to seek review at the Supreme Court); 10 U.S.C. § 870 (codifying an appellant's right to have free military appellate defense counsel representation at the Supreme Court). There is no break in counsel at each phase of review; an appellant is entitled to counsel through the entire period. *Diaz*, 59 M.J. at 37.

Appellant was advised of his right to a timely appeal. Appellant has been provided an update of the status of undersigned counsel's progress on his case. 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.

Through no fault of Appellant, undersigned counsel has been unable complete her review of Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise him regarding potential errors.

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

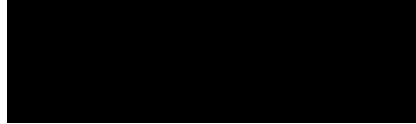
Respectfully submitted,



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

UNITED STATES <i>Appellee</i>)	No. ACM 40703
)	
)	
v.)	
	)	ORDER
Dustin C. O. ENGLISH Senior Airman (E-4) U.S. Air Force <i>Appellant</i>)	
	)	Panel 3

On 9 October 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Tenth), requesting an additional 30 days in which to file Appellant’s assignments of error.

On 17 October 2025, the Government filed its opposition out of time to Appellant’s motion. However, the Government failed to ask for leave of the court to file their motion out of time. See JT. CT. CRIM. APP. R. 23(d). In the interest of judicial economy, the court will accept the Government’s opposition out of time as is.

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

Accordingly, it is by the court on this 17th day of October, 2025,

ORDERED:

Appellant’s Motion for Enlargement of Time (Tenth) is **GRANTED**. Appellant shall file any assignments of error not later than **22 November 2025**.



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

specification running concurrently),² and to be discharged with a bad-conduct discharge. R. at 544. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action – *United States v. SrA Dustin C. O. English*. The convening authority denied Appellant’s request for deferment of automatic forfeitures, but waived automatic forfeitures for a period of six months for the benefit of Appellant’s dependent. *Id.*

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Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel provides the following information. Undersigned counsel is currently assigned 22 cases;⁴ 8 cases are pending before this Court (7 cases are pending AOE), 7 cases are pending before the United States Court of Appeals for the Armed Forces (CAAF) (2 cases are pending petitions for a grant of review and their respective supplements; 2 cases are pending client consultation on appealing further), and 7 cases are pending before the Supreme Court of the United States (5 cases are pending filing an individual petition for a writ of certiorari; 2 cases are pending client consultation on appealing further).

Since Appellant’s last request for an EOT, undersigned counsel completed review of *United States v. Kristopik*, No. ACM 40674, responded to the Government’s petition for reconsideration in *United States v. Kim*, No. ACM 24007, participated in preparation for and

² The military judge awarded a total of 414 days of confinement credit. R. at 545.

³ Three appellate exhibits were reserved for rulings that were later mooted. Exhibit Index at 4-5. While the final appellate exhibit is marked as App. Ex. XXXV, there are 32 appellate exhibits. *Id.* at 4-6.

⁴ Departure of Air Force Appellate Defense Division Counsel triggered reassignment of that counsel’s docket. Undersigned counsel inherited two cases, both pending at higher level courts of appeal.

attended oral argument in *United States v. Braum*, USCA Dkt. No. 25-0046/AF, and participated in five other moots to prepare Division counsel for upcoming oral arguments. Undersigned counsel also attended the Joint Appellate Advocacy Training on 25 and 26 September 2025, and participated in two status conferences. During those status conferences, undersigned counsel and the Appellate Defense Division’s leadership explained counsel’s Supreme Court briefing obligations and logistical hurdles. Those conversations are driving the reprioritization of undersigned counsel’s docket in this case, as elaborated below.

To date, undersigned counsel has seven cases prioritized over the present case:

1. *United States v. Kristopik*, No. ACM 40674 – Undersigned counsel finished her review of this record, which contained a 1,311-page transcript, 10 Prosecution Exhibits, 20 Defense Exhibits, 118 Appellate Exhibits, and one Court Exhibit. This appellant is not currently confined. Undersigned counsel is currently working with civilian counsel to review and complete the AOE, due to this Court by 24 October 2025.

2. *United States v. Tyson*, No. ACM 40617 – The Government’s answer to this appellant’s AOE is due on 28 October 2025. Undersigned counsel anticipates working a reply brief upon receiving the Government’s answer.

3. *United States v. Baumgartner*, Application No. 25A241 (before the Supreme Court) – The CAAF denied review of this case on 20 June 2025. This case is now pending a one-issue, joint petition for a writ of certiorari before the Supreme Court. This appellant was previously represented by a civilian counsel, but before the Supreme Court, undersigned counsel is his only representation.⁵ While this is a joint petition, undersigned counsel is the lead attorney for drafting

⁵ Appellate review “spans a continuum of process” where an appellant has the right to effective representation through the entire period of review, from the end of trial to a decision by the Supreme Court. *See Diaz v. JAG of the Navy*, 59 M.J. 34, 37 (C.A.A.F. 2003) (articulating this

the petition. From the date of the decision, this appellant has 90 days to file a petition for a writ of certiorari to the Supreme Court. 28 U.S.C. § 1259(3); Supreme Court Rule 13(1). Due to various other case priorities, to include cases pending before this Court, undersigned counsel requested a 60-day extension. Supreme Court Rule 13(5). The Chief Justice granted an extension on the filing deadline to 17 November 2025. To meet this deadline, undersigned counsel must complete the petition before the end of October 2025.

4. *United States v. Johnson*, Application No. 25A339 (before the Supreme Court) – This appellant’s petition is due to the Supreme Court on 11 December 2025. As with *Baumgartner*, a 60-day extension was already requested. This is a one-issue petition on an issue that was not fully briefed in the case, but developed while the appellant’s case was on appeal. Undersigned counsel is the only counsel working on this petition. To meet the filing deadline at the Supreme Court, this petition must be drafted, reviewed, and formatted before Thanksgiving 2025. Undersigned counsel will be on leave from 25 November to 2 December 2025, necessitating reprioritization of this case due to Supreme Court formatting and printing constraints.

5. *United States v. Dominguez-Garcia*, Application No. 25A340 (before the Supreme Court) – This appellant’s petition is due to the Supreme Court on 19 December 2025. As with *Baumgartner*, a 60-day extension was already requested. This is a joint petition on one issue that has been partially briefed in another case pending before the Supreme Court. However, there are multiple servicemembers’ appeals in this petition, which requires fact-specific analyses and tailoring. Undersigned counsel is lead counsel for this joint petition and shoulders the

right to representation up to the CAAF); 28 U.S.C. § 1259 (codifying an appellant’s right to seek review at the Supreme Court); 10 U.S.C. § 870 (codifying an appellant’s right to have free military appellate defense counsel representation at the Supreme Court). There is no break in counsel at each phase of review; an appellant is entitled to counsel through the entire period. *Diaz*, 59 M.J. at 37.

responsibility of drafting. Most of the formatting is already complete. To meet the filing deadline at the Supreme Court, this petition must be drafted, reviewed, and formatted before Thanksgiving 2025 due to undersigned counsel's leave from 25 November to 2 December 2025.

6. *United States v. Folts* (pending docketing number before the Supreme Court) – This appellant's petition is due to the Supreme Court on 23 December 2025. No extension request has occurred in this case, although another petitioner is joining this case. That petitioner plans to request 60 days this week for the specific purpose of joining his case with *Folts*. Thus, due the other petitioner's extension, there will not be an extension request in this case. *See* Supreme Court Rule 13(5) (disfavoring extensions to begin with and not contemplating multiple extensions). Undersigned counsel is one of three attorneys working on this petition, and the anticipated issue has been previously briefed. To meet the filing deadline at the Supreme Court, undersigned counsel's role in drafting and assisting on this petition must be complete before Thanksgiving 2025.

7. *United States v. Casillas* (pending docketing number before the Supreme Court) – This appellant's brief is due to the Supreme Court on 25 December 2025. No extension request has occurred in this case, nor is one anticipated at this time. This is a companion case to *Johnson*, but it is not a joint petition. The same issue will be raised in this appellant's case, but tailored to the facts. Undersigned counsel is the sole counsel for this petition. To meet the filing deadline at the Supreme Court, this petition must be drafted, reviewed, and formatted before 11 December 2025, although undersigned counsel is aiming for earlier, if feasible.

For context on the petitions, Supreme Court petitions have very specific formatting and content requirements. Supreme Court Rule 33. Additionally, much like a supplement to a petition for grant of review at the CAAF, a petition for a writ of certiorari is not a carbon copy of what was

submitted to the CAAF; the filing must be adjusted, often rewritten, and then painstakingly reformatted to fit the Court's requirements. Additional drafting time is required to meet these constraints, along with additional time for printing the forty required booklets. *See* Supreme Court Rule 12 (dictating the number of copies required). Built into this timeline is also the Division's internal review process. "Review" is a reference to peer and leadership review, a Division requirement for every substantive filing. Peer review is when another appellate defense counsel reviews the first final draft of the filing and provides feedback and edits. Leadership review is when a member of Division leadership reviews the new version of the final draft and provides feedback and edits. This required process can take anywhere between a few days to over a full week depending on the case and the workload of the Division. Thus, while the filing deadlines for the various Supreme Court petitions are over thirty days away, the logistical process of putting together a Supreme Court petition, to include researching and drafting, is about a 30-day process. Undersigned counsel must move from petition to petition to meet the filing deadlines and not delay Appellant's case further.

This Court issued an order in this case on 10 December 2024 stating, "[A]ny future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, will not be granted absent exceptional circumstances." Order at 2, Dec. 10, 2024. Undersigned counsel's caseload in front of the Supreme Court is an exceptional circumstance. **Twelve** Air Force Appellate Defense Division clients appealed to the Supreme Court in all of 2023, with multiple Division counsel having responsibility to ensure formatting and printing of those in six cases. Undersigned counsel **alone** has **five** clients currently appealing to the Supreme Court with near simultaneous deadlines. One counsel is doing almost half the Supreme Court filing workload that was accomplished over 2023 in approximately two months. This is an unusual and uncontrollable

situation; undersigned counsel has no control over when CAAF issues its opinions and must adhere to the Supreme Court filing deadlines to ensure a client can exercise his or her right to appeal.

There has long been anticipation that beginning in December 2024, the Division's workload would be increased and strained due to the expansion of servicemember access to the Supreme Court. National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118-31, § 533, 137 Stat. 136, 261 (2023). This expansion means that, instead of appellants ordinarily having to petition to the CAAF and garner review to be able to appeal to the Supreme Court, *any* case petitioned to the CAAF would be able to be appealed to the Supreme Court. *Id.* Undersigned counsel has one client in that posture currently, *Baumgartner*. But *Folts*, *Casillas*, *Johnson*, and *Dominguez-Garcia* were all granted at the CAAF. Having five petitioners before the Supreme Court in of itself is exceptional. But the timing of the five petitions is what justifies good cause and exceptional circumstances to grant this EOT.

Undersigned counsel desires to complete review of Appellant's case as soon as possible but has been unable to do so to her high workload. As cases continue to be reviewed or denied by CAAF, that high workload is not expected to change, but undersigned counsel does not expect her seven cases currently pending review at CAAF to affect Appellant's case. Nevertheless, data may be helpful to the Court in understanding the revolutionary change in caseload over the past few years and why workload alone is an exceptional circumstance here. In summer 2024, based on an analysis of the Division's filings and corresponding reports from the Joint Service Committee on Military Justice under Article 146a(b), UCMJ, 10 U.S.C. § 946a(b), a comparative analysis between the services was performed to show the anticipated increase in Supreme Court workload. This data assumed 40% to 60% of clients who appealed to the CAAF would continue their appeal to the Supreme Court. That data was compiled into the tables below:

Fiscal Year	Air Force		
	Automatic Appeals	Direct Appeals	Cases to CAAF
2019	199	0	82/147 (56%)
2020	127	2	72/188 (38%)
2021	137	2	87/150 (58%)
2022	121	1	76/189 (40%)
2023	97	20	77/164 (46%)

Average Annual CAAF Petitions	Assume 40% to SCOTUS	Assume 60% to SCOTUS
78.8	32	47
Average Minus <i>Grostejon</i> /Merits Only		
59	24	35

Fiscal Year	Army		
	Automatic Appeals	Direct Appeals	Cases to CAAF
2019	387 (+94% vs AF)	0	312/457 (68%)
2020	486 (+283% vs AF)	0	252/458 (55%)
2021	314 (+129% vs AF)	1	203/364 (56%)
2022	303 (+150% vs AF)	2	168/342 (49%)
2023	344 (+254% vs AF)	14	118/321 (36%)

Average Annual CAAF Petitions	Assume 40% to SCOTUS	Assume 60% to SCOTUS
210.6	84	126

Fiscal Year	Department of the Navy		
	Automatic Appeals	Direct Appeals	Cases to CAAF
2019	280 (+40% vs AF)	1	54/276 (20%)
2020	260 (+104% vs AF)	4	33/267 (12%)
2021	265 (+93% vs AF)	0	51/317 (16%)
2022	239 (+97% vs AF)	7	41/289 (14%)
2023	166 (+71% vs AF)	71	44/293 (15%)

Average Annual CAAF Petitions	Assume 40% to SCOTUS	Assume 60% to SCOTUS
44.6	18	27

The increase in workload is significant and though undersigned counsel's workload comes mainly from granted cases, it is a glimpse of the exceptionally high workload to come for many of the Division's counsel.

Overall, based on undersigned counsel's Supreme Court workload and the timing of those petitions, exceptional circumstances exist to exceed the "360 days after docketing" deadline originally set almost one year ago in this case. Furthermore, based on this workload, undersigned counsel anticipates needing at least one more EOT, possibly two.

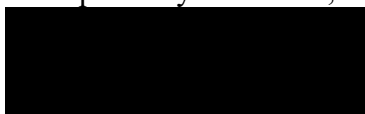
Undersigned counsel is tracking one issue in Appellant's case already. But undersigned counsel has been unable to perform the research required to assess the merits of this issue. At this time, though, undersigned counsel does not anticipate this case being submitted on the merits. Additional time is required to properly research, brief, and advise Appellant on *at least* this issue.

Appellant was advised of his right to a timely appeal. Appellant was provided an update of the status of undersigned counsel's progress on his case. 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.

Through no fault of Appellant, undersigned counsel has been unable complete her review of Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise him regarding potential errors.

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

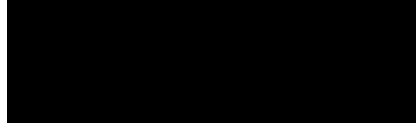
Respectfully submitted,



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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims' Counsel for K.T. on 9 October 2025.



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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

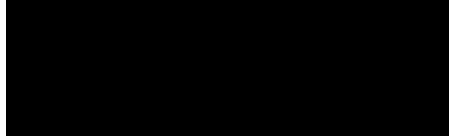
UNITED STATES,)	UNITED STATES' OPPOSITION
	)	TO APPELLANT'S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME -
	)	OUT OF TIME
v.)	
	)	Before Panel No. 3
Senior Airman (E-4))	
DUSTIN C.O. ENGLISH,	)	No. ACM 40703
United States Air Force.)	
<i>Appellant</i>	)	17 October 2025

**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 Out of Time opposition to Appellant's Motion for Enlargement of Time to file an Assignment of Error in this case. Due to an oversight, the United States thought that an opposition to this enlargement of time had been filed earlier this week. The United States now takes corrective action and files this response.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 390 days in length. Appellant's year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 5 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not completed review of the record of trial at this late stage of the appellate process.

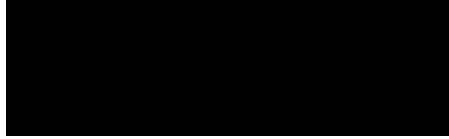
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 17 October 2025.



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

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

UNITED STATES	)	No. ACM 40703
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Dustin C. O. ENGLISH)	
Senior Airman (E-4))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 3

On 9 November 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Eleventh) requesting an additional 30 days to submit Appellant’s assignments of error. The Government opposed the motion.

On 19 November 2025, the court held a status conference. Appellant was represented by Major Samantha Castanien; Mr. Dwight Sullivan from the Appellate Defense Division was also present. Major Vanessa Bairos represented the Government. Appellant’s counsel has not begun reviewing the record of trial in the case and Appellant is aware of this fact but still consents to this request for an enlargement of time. Appellant’s counsel estimated she would be able to file this brief by the requested date but might need to make one more request for an extension of time. The Government maintained its opposition to Appellant’s request.

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

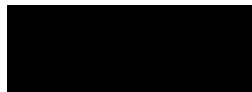
Accordingly, it is by the court on this 19th day of November 2025,

ORDERED:

Appellant’s Motion for an Enlargement of Time (Eleventh) is **GRANTED**. Appellant shall file any assignments of error not later than **22 December 2025**.



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

grade of E-1, to be reprimanded, to be confined for a total of 40 months (confinement for each specification running concurrently),³ and to be discharged with a bad-conduct discharge. R. at 544. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action – *United States v. SrA Dustin C. O. English*. The convening authority denied Appellant’s request for deferment of automatic forfeitures, but waived automatic forfeitures for a period of six months for the benefit of Appellant’s dependent. *Id.*

The record of trial is seven volumes consisting of five admitted Prosecution Exhibits, 15 Defense Exhibits, 32 Appellate Exhibits,⁴ and two Court Exhibits. The transcript is 546 pages. Appellant is not currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel provides the following information. Undersigned counsel is currently assigned 20 cases; 9 cases are pending before this Court (7 cases are pending AOE), 5 cases are pending before the United States Court of Appeals for the Armed Forces (CAAF) (2 cases are pending petitions for a grant of review and their respective supplements; 1 case is pending grant briefing), and 6 cases are pending before the Supreme Court of the United States (5 cases are pending filing an individual petition for a writ of certiorari; 1 case is pending client consultation on appealing further).

Since Appellant’s last request for an EOT, undersigned counsel drafted, edited, reviewed, and attempted to file a ten-issue, partially-sealed, AOE in *United States v. Kristopik*, No. ACM 40674, but the Court rejected the filing. Order, *United States v. Kristopik*, No. ACM 40674 (Nov. 4, 2025). Thus, *Kristopik* is still pending above Appellant’s case, as noted below. Additionally, since Appellant’s last EOT, undersigned counsel filed the reply brief in *United States v. Tyson*,

³ The military judge awarded a total of 414 days of confinement credit. R. at 545.

⁴ Three appellate exhibits were reserved for rulings that were later mooted. Exhibit Index at 4-5. While the final appellate exhibit is marked as App. Ex. XXXV, there are 32 appellate exhibits. *Id.* at 4-6.

No. ACM 40617, and filed the supplement to the petition for grant of review in *United States v. Torres Gonzalez*, USCA Dkt. No. 26-0018/AF.

To date, undersigned counsel has seven cases prioritized over the present case:

1. *United States v. Baumgartner*, Application No. 25A241 (before the Supreme Court) – Undersigned counsel drafted and finalized this petition, which was submitted to the printer. Undersigned counsel anticipates personally delivering the 40 required copies to the Supreme Court on or before 17 November 2025, the due date.

2. *United States v. Kristopik*, No. ACM 40674 – As noted above, this Court rejected the ten-issue, 73-page, 22,839-word AOE filed for this case because the motion to exceed the word count and page limit, identical to other motions filed previously, lacked good cause. Since the rejection, undersigned counsel spent three days coordinating with civilian counsel, drafting, and routing for review a motion for reconsideration with suggestion for en banc reconsideration in this case (filed 7 November 2025). Because this AOE was rejected, the new deadline is 18 November 2025, and, as such, this case remains prioritized over Appellant's.

3. *United States v. Marin Perez*, USCA Dkt. No. 25-0238/AF – On 16 October 2025, the CAAF granted one issue in this case. Undersigned counsel requested an extension, which was granted. The grant brief is now due 24 November 2025.

4. *United States v. Johnson*, Application No. 25A339 (before the Supreme Court) – This appellant's petition is due to the Supreme Court on 11 December 2025. A 60-day extension was already requested. This is a one-issue petition on an issue that was not fully briefed in the case, but developed while the appellant's case was on appeal. Undersigned counsel is the only counsel working on this petition. To meet the filing deadline at the Supreme Court, this petition must be drafted, reviewed, and formatted before Thanksgiving 2025. Undersigned counsel will be on leave

from 25 November to 2 December 2025, necessitating reprioritization of this case due to Supreme Court formatting and printing constraints.

5. *United States v. Casillas* (pending docketing number before the Supreme Court) – This appellant’s brief is due to the Supreme Court on 25 December 2025. No extension request has occurred in this case, nor is one anticipated at this time. This is a companion case to *Johnson*, and may evolve into a joint petition. Undersigned counsel is the sole counsel for this petition. To meet the filing deadline at the Supreme Court, if *Casillas* joins with *Johnson*, this petition must be drafted, reviewed, and formatted before 24 November 2025.

6. *United States v. Dominguez-Garcia*, Application No. 25A340 (before the Supreme Court) – This appellant’s petition is due to the Supreme Court on 19 December 2025. A 60-day extension was already requested. This is a joint petition on one issue that has been partially briefed in another case pending before the Supreme Court. However, there are multiple servicemembers’ appeals in this petition, which requires fact-specific analyses and tailoring. Undersigned counsel is lead counsel for this joint petition and shoulders the responsibility of drafting. Most of the formatting is already complete. To meet the filing deadline at the Supreme Court, this petition must be drafted, reviewed, and formatted before Thanksgiving 2025 due to undersigned counsel’s leave from 25 November to 2 December 2025.

7. *United States v. Folts* (pending docketing number before the Supreme Court) – This appellant’s petition is due to the Supreme Court on 23 December 2025. No extension request has occurred in this case, although another petitioner is joining this case. That petitioner requested a 60-day extension for the specific purpose of joining his case with *Folts*. Thus, due to the other petitioner’s extension, there will not be an extension request in this case. *See* Supreme Court Rule 13(5) (disfavoring extensions to begin with and not contemplating multiple extensions). Undersigned counsel is one of three attorneys working on this petition, and the anticipated issue

has been previously briefed. To meet the filing deadline at the Supreme Court, undersigned counsel's role in drafting and assisting on this petition must be complete before Thanksgiving 2025.

For context on the petitions, Supreme Court petitions have very specific formatting and content requirements. Supreme Court Rule 33. Additionally, much like a supplement to a petition for grant of review at the CAAF, a petition for a writ of certiorari is not a carbon copy of what was submitted to the CAAF; the filing must be adjusted, often rewritten, and then painstakingly reformatted to fit the Court's requirements. Additional drafting time is required to meet these constraints, along with additional time for printing the forty required booklets. *See* Supreme Court Rule 12 (dictating the number of copies required). Built into this timeline is also the Division's internal review process.⁵ This required process can take anywhere between a few days to over a full week depending on the case and the workload of the Division. Thus, while the filing deadlines for the various Supreme Court petitions are weeks away, the logistical process of putting together a Supreme Court petition, to include researching and drafting, is about a 30-day process. Undersigned counsel must move from petition to petition to meet the filing deadlines and not delay Appellant's case further.

This Court issued an order in this case on 10 December 2024 stating, “[A]ny future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, will not be granted absent exceptional circumstances.” Order at 2, Dec. 10, 2024. As previously asserted, undersigned counsel's caseload in front of the Supreme Court is an exceptional circumstance. Appellant's Motion for Enlargement of Time (Tenth). *Twelve* Air Force Appellate

⁵ “Review” is a reference to peer and leadership review, a Division requirement for every substantive filing. Peer review is when another appellate defense counsel reviews the first final draft of the filing and provides feedback and edits. Leadership review is when a member of Division leadership reviews the new version of the final draft and provides feedback and edits.

Defense Division clients appealed to the Supreme Court in all of 2023, with multiple Division counsel having responsibility to ensure formatting and printing of those in six cases. *Id.* Undersigned counsel *alone* has *five* clients currently appealing to the Supreme Court with near simultaneous deadlines. One counsel is doing almost half the Supreme Court filing workload that was accomplished over 2023 in approximately one month at this point. This is an unusual and uncontrollable situation; undersigned counsel has no control over when CAAF issues its opinions and must adhere to the Supreme Court filing deadlines to ensure a client can exercise his or her right to appeal.

There has long been anticipation that beginning in December 2024, the Division's workload would be increased and strained due to the expansion of servicemember access to the Supreme Court. National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118-31, § 533, 137 Stat. 136, 261 (2023). This expansion means that, instead of appellants ordinarily having to petition to the CAAF and garner review to be able to appeal to the Supreme Court, *any* case petitioned to the CAAF would be able to be appealed to the Supreme Court. *Id.* Undersigned counsel has one client in that posture currently, *Baumgartner*. But *Folts*, *Casillas*, *Johnson*, and *Dominguez-Garcia* were all granted at the CAAF. Having five petitioners before the Supreme Court in of itself is exceptional. But the timing of the five petitions is what justifies good cause and exceptional circumstances to grant this EOT. Appellant's Motion for Enlargement of Time (Tenth).

Undersigned counsel desires to complete review of Appellant's case as soon as possible but has been unable to do so to her high workload. Undersigned counsel previously asserted that she did not expect her pending CAAF caseload to affect Appellant's case. Appellant's Motion for Enlargement of Time (Tenth) at 7. However, the CAAF granted review in *Marin Perez*, which has put additional pressure on her overall caseload. Based on undersigned counsel's Supreme Court

workload, the timing of those petitions, and the grant in *Marin Perez*, exceptional circumstances exist to exceed the “360 days after docketing” deadline originally set almost one year ago in this case. Furthermore, based on this workload, undersigned counsel anticipates needing at least one more EOT, possibly two.

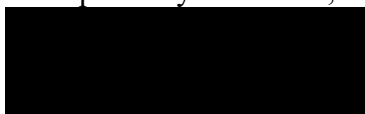
Undersigned counsel is tracking one issue in Appellant’s case already. But undersigned counsel has been unable to perform the research required to assess the merits of this issue. At this time, though, undersigned counsel does not anticipate this case being submitted on the merits. Additional time is required to properly research, brief, and advise Appellant on *at least* this issue.

Appellant was advised of his right to a timely appeal. Appellant was provided an update of the status of undersigned counsel’s progress on his case. 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.

Through no fault of Appellant, undersigned counsel has been unable complete her review of Appellant’s case. An enlargement of time is necessary to allow counsel to fully review Appellant’s case and advise him regarding potential errors.

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

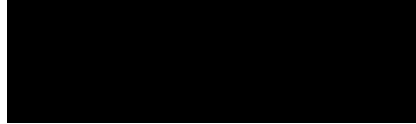
Respectfully submitted,

A black rectangular redaction box covering the signature of Samantha M. Castanien.

SAMANTHA M. CASTANIEN, Maj, USAF
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Joint Base Andrews NAF, MD 20762-6604
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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims' Counsel for K.T. on 9 November 2025.



SAMANTHA M. CASTANIEN, Maj, USAF
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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES’
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 3
Senior Airman (E-4))	
DUSTIN C.O. ENGLISH,	)	No. ACM 40703
United States Air Force.)	
<i>Appellant</i>	)	12 November 2025

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 420 days in length. Appellant’s over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 4 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not completed review of the record of trial at this late stage of the appellate process.

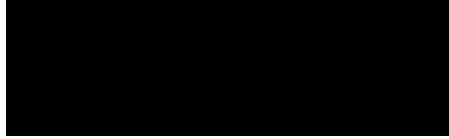
WHEREFORE, the United States respectfully requests that this Court deny Appellant's enlargement motion.



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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 12 November 2025.



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

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

UNITED STATES	)	No. ACM 40703
<i>Appellee</i>)	
)	
v.)	
	)	NOTICE OF PANEL
Dustin C.O. ENGLISH	)	CHANGE
Senior Airman (E-4))	
U.S. Air Force)	
<i>Appellant</i>)	

It is by the court on this 15th day of December, 2025,

ORDERED:

That the Record of Trial in the above-styled matter is withdrawn from Panel 3 and referred to Panel 2 for appellate review.

This panel letter supersedes all previous panel assignments.



FOR THE COURT

JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

R. at 1, 231, 233, 237-38, 456, 458. The military judge sentenced Appellant, to be reduced to the grade of E-1, to be reprimanded, to be confined for a total of 40 months (confinement for each specification running concurrently),³ and to be discharged with a bad-conduct discharge. R. at 544. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action – *United States v. SrA Dustin C. O. English*. The convening authority denied Appellant’s request for deferment of automatic forfeitures, but waived automatic forfeitures for a period of six months for the benefit of Appellant’s dependent. *Id.*

The record of trial is seven volumes consisting of five admitted Prosecution Exhibits, 15 Defense Exhibits, 32 Appellate Exhibits,⁴ and two Court Exhibits. The transcript is 546 pages. Appellant is not currently confined.

Pursuant to A.F. Ct. Crim. App. R. 23.3(m)(6), undersigned counsel provides the following information. Undersigned counsel is currently assigned 20 cases; 9 cases are pending before this Court (6 cases are pending AOE’s; 1 case was remanded), 4 cases are pending before the United States Court of Appeals for the Armed Forces (CAAF) (1 case is pending a petition for a grant of review and the respective supplement; 1 case is pending reply briefing), and 7 cases are pending before the Supreme Court of the United States (3 cases are pending filing an individual petition for a writ of certiorari).

Since Appellant’s last request for an EOT, undersigned counsel edited, reviewed, and re-filed a ten-issue, partially-sealed, AOE in *United States v. Kristopik*, No. ACM 40674, after eliminated approximately 3,000 words from the brief. Additionally, undersigned counsel filed the supplement to the petition for grant of review in *United States v. Ziesche*, USCA Dkt. No. 26-

³ The military judge awarded a total of 414 days of confinement credit. R. at 545.

⁴ Three appellate exhibits were reserved for rulings that were later mooted. Exhibit Index at 4-5. While the final appellate exhibit is marked as App. Ex. XXXV, there are 32 appellate exhibits. *Id.* at 4-6.

0036/AF, and filed the petitions for a writ of certiorari in *United States v. Baumgartner et al*, No. No. 25-599, and *United States v. Casillas et al*, No. No. 25-682. Both *United States v. Dominguez-Garcia et al*, Application No. 25A340 (before the Supreme Court), and *United States v. Folts et al* (pending docketing number before the Supreme Court), are with the printer and will be filed no later than 19 December 2025.

To date, undersigned counsel does not have any cases prioritized over Appellant’s.

But there are two cases that may impact Appellant’s case during the requested enlargement period, should an AOE be filed:

1. *United States v. Marin Perez*, USCA Dkt. No. 25-0238/AF – The Government’s answer brief is due on 29 December 2025. Upon receipt, undersigned counsel has seven days to file the reply brief. No extension requests are anticipated. Oral argument is scheduled for 25 February 2026.⁵

2. *United States v. Kristopik*, No. ACM 40674 – The Government’s answer brief is due on 31 December 2025. Undersigned counsel will likely request additional time to reply due to *Marin Perez* and Appellant’s case.

Undersigned counsel has begun review of Appellant’s case. Depending on further consultation with Appellant, a motion to view sealed materials may be required, which undersigned counsel will file promptly, if that is the case. Undersigned counsel has reviewed the record for completeness (minus the sealed materials), reviewed pre- and post-trial matters, reviewed all exhibits, and is currently reviewing the transcript. Based on undersigned counsel’s review so far, undersigned counsel requires additional time to consult with Appellant on his options. Undersigned counsel has been able to perform some research on the issue that was already

⁵ Undersigned counsel previously asserted that she did not expect her pending CAAF caseload to affect Appellant’s case. Appellant’s Motion for Enlargement of Time (Tenth) at 7. However, the CAAF granted review in *Marin Perez*, which has put additional pressure on her overall caseload.

flagged for the Court in previous EOTs, but needs additional time to advise Appellant on this issue and others in his case. If an AOE is filed, undersigned counsel anticipates this being the last EOT request.

This Court issued an order in this case on 10 December 2024 stating, “[A]ny future requests for enlargements of time that, if granted, would expire more than 360 days after docketing, will not be granted absent exceptional circumstances.” Order at 2, Dec. 10, 2024. As previously asserted, undersigned counsel’s caseload in front of the Supreme Court is an exceptional circumstance. Appellant’s Motion for Enlargement of Time (Tenth). *Twelve* Air Force Appellate Defense Division clients appealed to the Supreme Court in all of 2023, with multiple Division counsel having responsibility to ensure formatting and printing of those in six cases. *Id.* Undersigned counsel *alone* had *five* clients appealing to the Supreme Court with near simultaneous deadlines. One counsel is doing almost half the Supreme Court filing workload that was accomplished over 2023 in approximately one month. This is an unusual and uncontrollable situation; undersigned counsel has no control over when CAAF issues its opinions and must adhere to the Supreme Court filing deadlines to ensure a client can exercise his or her right to appeal.

There has long been anticipation that beginning in December 2024, the Division’s workload would be increased and strained due to the expansion of servicemember access to the Supreme Court. National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118-31, § 533, 137 Stat. 136, 261 (2023). This expansion means that, instead of appellants ordinarily having to petition to the CAAF and garner review to be able to appeal to the Supreme Court, *any* case petitioned to the CAAF would be able to be appealed to the Supreme Court. *Id.* Undersigned counsel had one client in that posture, *Baumgartner*. But *Folts*, *Casillas*, *Johnson*, and *Dominguez-Garcia* were all granted at the CAAF. Having five petitioners before the Supreme Court in of itself

is exceptional. But the timing of the five petitions is what justifies good cause and exceptional circumstances to grant this EOT. Appellant's Motion for Enlargement of Time (Tenth).

Based on undersigned counsel's review of Appellant's record to date, undersigned counsel believes this will be the last EOT request, but needs the additional thirty days to finish reviewing the record, consult with Appellant, draft and research any issues, assist with any issues raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), and ensure peer and leadership review.⁶ Appellant's AOE is currently due in ten days, which is not enough time to accomplish these tasks and provide effective assistance of counsel. Additionally, during the next two weeks, the Appellate Defense Division has a substantial amount of counsel and leadership taking leave, reducing the ability to conduct peer and leadership reviews, a Division requirement. Undersigned counsel desires to complete review of Appellant's case as soon as possible but has been unable to do so to her high workload. Based on undersigned counsel's Supreme Court workload, which is almost complete, and the grant in *Marin Perez*, exceptional circumstances exist to exceed the "360 days after docketing" deadline originally set almost one year ago in this case.

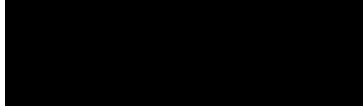
Appellant was advised of his right to a timely appeal. Appellant was provided an update of the status of undersigned counsel's progress on his case. Appellant was advised of the request for this enlargement of time. Appellant has provided limited consent to disclose a confidential communication with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

Through no fault of Appellant, undersigned counsel has been unable to finish her review of Appellant's case and advise Appellant accordingly. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise him regarding potential errors.

⁶ "Review" is a reference to peer and leadership review, a Division requirement for every substantive filing. Peer review is when another appellate defense counsel reviews the first final draft of the filing and provides feedback and edits. Leadership review is when a member of Division leadership reviews the new version of the final draft and provides feedback and edits.

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

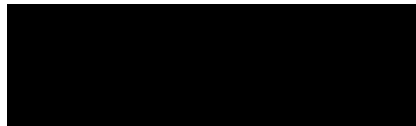
Respectfully submitted,



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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing was sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims' Counsel for K.T. on 12 December 2025.



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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	UNITED STATES’
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 2
Senior Airman (E-4))	
DUSTIN C.O. ENGLISH,	)	No. ACM 40703
United States Air Force.)	
<i>Appellant</i>	)	16 December 2025

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 450 days in length. Appellant’s over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 3 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.



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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 16 December 2025.



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Government Trial & Appellate Operations Division
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IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	APPELLANT’S MOTION TO
<i>Appellee,</i>	)	WITHDRAW FROM
	)	APPELLATE REVIEW
v.	)	AND ATTACH
)	
	)	Before Panel No. 2
Senior Airman (E-4))	
DUSTIN C. O. ENGLISH,	)	No. ACM 40703
United States Air Force,)	
<i>Appellant.</i>	)	31 December 2025

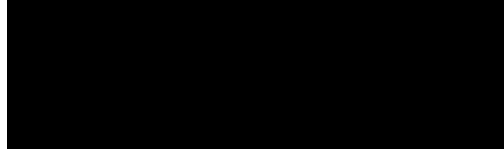
**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rule 16 of the Rules of Practice and Procedure of the United States Air Force Court of Criminal Appeals and Rule for Courts-Martial (R.C.M.) 1115, Appellant moves to withdraw his case from appellate review. Appellant has fully consulted with Major Samantha Castanien, his appellate defense counsel, regarding this motion to withdraw. No person has compelled, coerced, or induced Appellant by force, promises of clemency, or otherwise, to withdraw his case from appellate review.

Further, pursuant to Rules 23(b) and 23.3(b), undersigned counsel asks this Court to attach the two-page document appended to this pleading to the record of this proceeding. The appended document, Appellant’s completed DD Form 2330, *Waiver/Withdrawal of Appellate Rights in General and Special Courts-Martial Subject to Review by a Court of Criminal Appeals*, is necessary to comply with R.C.M. 1115(d) and Rule 16.1 of this Court’s Rules of Practice and Procedure.

WHEREFORE, Appellant respectfully requests that this Court grant this motion to withdraw from appellate review and attach matters to the record.

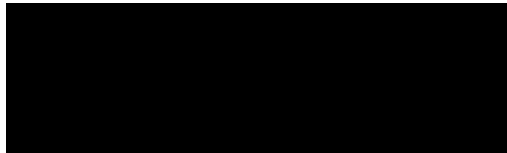
Respectfully submitted,



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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Air Force Government Trial and Appellate Operations Division and Appellate Victims' Counsel for K.T. on 31 December 2025.



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