

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

UNITED STATES	)	No. ACM S32804
<i>Appellee</i>	)	
	)	
v.	)	
	)	ORDER
Jacob A. GRANT	)	
Airman Basic (E-1)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	Panel 2

On 31 January 2025, counsel for Appellant submitted a Motion for Enlargement of Time (First) requesting an additional 60 days to submit Appellant's assignments of error. The Government 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 5th day of February, 2025,

ORDERED:

Appellant's Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error **not later than 15 April 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 330 days after docketing, will not be granted absent exceptional circumstances.



FOR THE COURT



OLGA STANFORD, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FIRST)
	)	
v.	)	Before Panel 2
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	31 January 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his first enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **15 April 2025**. This case was docketed with this Court on 16 December 2025. From the date of docketing to the present date, 46 days have elapsed. On the date requested, 120 days will have elapsed.

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

Respectfully submitted,

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 31 January 2025.

Respectfully submitted,

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TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

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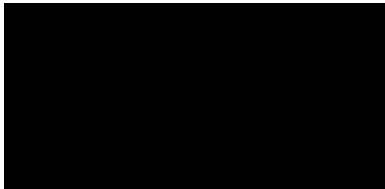
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’ GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman Basic (E-1)	)	ACM S32804
JACOB A. GRANT, 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.

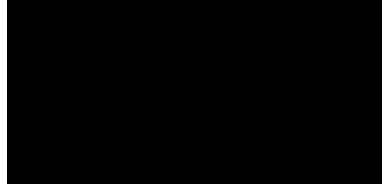


JOCELYN Q. WRIGHT, Maj, USAF
Appellate Government Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 4 February 2025.



JOCELYN Q. WRIGHT, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION TO ATTACH
<i>Appellee,</i>	)	APPENDIX
	)	
	)	
v.	)	Before Panel 2
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force.	)	
<i>Appellant.</i>	)	7 February 2025

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

Pursuant to Rules 23.3(b) of this Court's Rules of Practice and Procedure, Appellant moves to attach the Appendix to this motion to the record of trial. The Appendix is a declaration from Lieutenant Colonel Allen Abrams, Deputy Chief of the Appellate Defense Division. The declaration outlines the manning and workload challenges facing the Appellate Defense Division. This declaration is relevant and necessary for this Court's reconsideration of its Order dated 5 February 2025.

WHEREFORE, Appellant requests this Court grant this motion to attach.



GRANTED
19 FEB 2025

Respectfully submitted,

[Redacted signature block]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[Redacted signature block]

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 7 February 2025.

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES <i>Appellee,</i>	)	MOTION FOR RECONSIDERATION
	)	
	)	
	)	
v.	)	Before Panel No. 2
	)	
Airman Basic (E-1)	)	Case No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	
<i>Appellant.</i>	)	7 February 2025

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

Pursuant to Rule 31 of the Joint Rules of Appellate Procedure, effective 17 May 2024, Appellant hereby moves to reconsider the part of its order, dated 5 February 2025, requiring a showing of exceptional circumstances before granting enlargements of time that would expire more than 330 days after docketing. Order at 2, *United States v. Grant*.

This Court’s rules state that any motion for enlargement of time be supported by “good cause.” A.F. CT. CRIM. APP. R. 23.3(m)(1). Underlying both this rule and Appellant’s enlargement of time (EOT) are two important interests: (1) the powers of this Court “to issue orders to counsel to ensure the timely progress of cases,” *United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008), and (2) the requirement under Article 70, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 870 (2018), to afford Appellant adequate representation by counsel. In recognizing that balance, the United States Court of Appeals for the Armed Forces (CAAF) articulated a variety of tools this



employ, to include inquiring as to the cause of the delay through a status conference or order, as well as “asking the Judge Advocate General to direct the assignment of

DENIED
19 FEB 2025

additional or substitute counsel.” *Roach*, 66 M.J. at 418. These are predicated on a triggering event: “when counsel appears to be unresponsive.” *Id.*

This Court’s order requiring a showing of exceptional circumstances is premature and does not account for the circumstances driving delays in other cases before this Court. While likely well-intentioned as a means of managing expectations of counsel, the Court’s order was issued without any indication of “unresponsive[ness]” by undersigned counsel. *Id.* Moreover, undersigned counsel has not been unresponsive, filing a timely motion seeking an enlargement of time resulting in the order at issue.

Undersigned counsel is willing to gain the necessary familiarity with the record to submit assignments of error prior to the filing deadline but, as can be seen by the Declaration of the Appellate Defense Division’s Deputy Chief, is impeded in doing so for reasons that amount to staffing shortages and, in turn, high workload demands on undersigned counsel. *See Appendix.* at 1-6. The crux of these workload issues is that the Appellate Defense Division’s workload is up, but its staff to carry out that work remains largely unchanged. This is made even more challenging by the Government’s recent restriction of this office’s reserve personnel.

The Appellate Defense Division has the highest volume of cases pending initial briefing before this Court since 2017, but the demands on the Division’s counsel are greater in today’s cases because records of trial now are between twenty-five and thirty-five percent longer than those of 2017, based solely on their transcript pages. *Id.* at 1-4. The demand placed by this heightened amount of review per case has been compounded by a higher volume of clients, with the 2022 broadening of direct appeals in Article 65, UCMJ, requiring record-review and consultation for each eligible client, and with those direct appeals docketed with this Court amounting to approximately only forty percent of this pool of clients. *Id.* Over this same time since

the December 2022 law change, the Appellate Defense Division faced a high volume of cases before the CAAF, a high volume of interlocutory appeals and writ-petitions, and multiple time-sensitive petitions to the United States Supreme Court. *Id.* All three of these classes of cases are particularly impactful on an attorney's ability to work cases before this Court because of the timelines involved, with interlocutory appeals taking priority and with cases appealed to the CAAF and the Supreme Court subject to strict timeline requirements. 10 U.S.C. §§ 806b(e)(3)(B), 862(b), 867(b); 28 U.S.C. § 2101(c). The workload demands before the Supreme Court are only increasing, with every appellant seeking review at the CAAF now eligible to petition the Supreme Court. *Id.* at 5-6. Relative to the CAAF and the Supreme Court, this Court has substantially greater flexibility to adjust its deadlines and should do so here. *Compare United States v. Moreno*, 63 M.J. 129, 142 (C.A.A.F. 2006) (setting eighteen months post-docketing with the Court of Criminal Appeals as a trigger for analysis but declining to make it dispositive in light of the possibility of reasonable delay), *with* 10 U.S.C. 867(b) *and* 28 U.S.C. § 2101(c).

Good cause for doing so is even more evident in light of the Appellate Defense Division's multi-faceted efforts to mitigate its workload strain. Multiple long-term absences were filled through support by reservists trained for and experienced in appellate practice. Appendix at 5-6. In 2023, the Appellate Defense Division sought a legislative change to alleviate its workload but was unsuccessful. *Id.* at 6. Also in 2023, the Appellate Defense Division requested eight additional active-duty personnel. *Id.* One civilian has been permanently provided, starting work on 16 December 2024. *Id.* at 1, 6. Assignment of one additional active-duty counsel is scheduled for 2025, but it is unclear whether that is intended as a permanent additional billet. *Id.* at 6. In 2024, the Appellate Defense Division again requested eight additional active-duty personnel, with action

pending on that request. *Id.* As of the start of 2025, the Appellate Defense Division has an advertisement for long-term reserve support in an effort to move cases. *Id.*

Having been tasked with doing substantially more work with the same resources, undersigned counsel's docket is such that the ordinary workload precludes—and has precluded—undersigned counsel from finalizing review and briefing of Appellant's case. That workload is to a degree that it may warrant scrutiny of what The Judge Advocate General is doing to ameliorate it. *See Roach*, 66 M.J. at 418; *Moreno*, 63 M.J. at 137. Specific to this motion for reconsideration, because Appellant desires undersigned counsel to review Appellant's case and advocate accordingly, requested extensions on Appellant's behalf should be assessed for good cause only. In light of undersigned counsel's workload and the workload of counsel across the Appellate Defense Division, assessment of a requested extension of time based on a standard requiring a showing of exceptional circumstances risks diluting the import of this Court's order or depriving Appellant of the right to counsel without meeting the requirements set out in *Roach*. 66 M.J. at 418; *see also Douglas v. California*, 372 U.S. 353, 357 (1963) (stressing the importance of the right to counsel in an indigent's first appeal of right).

This Court should grant this motion, reconsider the part of its order requiring a showing of exceptional circumstances before granting enlargements of time that would expire more than 330 days after docketing, and assess future motions for enlargements of time for good cause.

Respectfully Submitted,

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were delivered by e-mail to the Court and served on the Government Trial and Appellate Operations Division on 7 February 2025.

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR
<i>Appellee,</i>	)	RECONSIDERATION <i>EN BANC</i>
	)	
	)	
v.	)	Before Panel No. 2
	)	
Airman Basic (E-1)	)	Case No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	
<i>Appellant.</i>	)	20 February 2025

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

Appellant hereby moves this Court to reconsider *en banc* part of its interlocutory order, dated 5 February 2025. JT. CT. CRIM. APP. R. 27; A.F. CT. CRIM. APP. R. 23.1(b), 31.1, and 31.3. Specifically, Appellant moves this Court reconsider the part of its order which requires a showing of exceptional circumstances before granting enlargements of time that would expire more than 330 days after docketing. Order at 2, *United States v. Grant*. Appellant previously moved for reconsideration of this Court’s order, but that reconsideration was denied without explanation by one panel of this Court.

I. Reconsideration is appropriate because the exceptional circumstances requirement ignores the circumstances driving current delays in Air Force appellate processing.

This Court’s rules state that any motion for enlargement of time be supported by “good cause.” A.F. CT. CRIM. APP. R. 23.3(m)(1). Underlying both this rule and Appellant’s enlargement of time (EOT) are two important interests: (1) the powers of this Court “to issue orders to counsel to ensure the timely progress of cases,” *United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008), and (2) the requirement under Article 70, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 870 (2018), to afford Appellant adequate representation by counsel. In recognizing that balance,

the United States Court of Appeals for the Armed Forces (CAAF) articulated a variety of tools this Court might employ, to include inquiring as to the cause of the delay through a status conference or show cause order, as well as “asking the Judge Advocate General to direct the assignment of additional or substitute counsel.” *Roach*, 66 M.J. at 418. These are predicated on a triggering event: “when counsel appears to be unresponsive.” *Id.*

This Court’s order requiring a showing of exceptional circumstances is premature and does not account for the circumstances driving delays in other cases before this Court. While likely well-intentioned as a means of managing expectations of counsel, the Court’s order was issued without any indication of “unresponsive[ness]” by undersigned counsel. *Id.* Moreover, undersigned counsel has not been unresponsive, filing a timely motion seeking an enlargement of time resulting in the order at issue.

Undersigned counsel is willing to gain the necessary familiarity with the record to submit assignments of error prior to the filing deadline but, as can be seen by the Declaration of the Appellate Defense Division’s Deputy Chief, is impeded in doing so for reasons that amount to staffing shortages and, in turn, high workload demands on undersigned counsel. *See Appendix at 1-6.* The crux of these workload issues is that the Appellate Defense Division’s workload is up, but its staff to carry out that work remains largely unchanged. This is made even more challenging by the Government’s recent restriction of this office’s reserve personnel.

The Appellate Defense Division has the highest volume of cases pending initial briefing before this Court since 2017, but the demands on the Division’s counsel are greater in today’s cases because records of trial now are between twenty-five and thirty-five percent longer than those of 2017, based solely on their transcript pages. *Id.* at 1-4. The demand placed by this heightened amount of review per case has been compounded by a higher volume of clients, with

the 2022 broadening of direct appeals in Article 65, UCMJ, requiring record-review and consultation for each eligible client, and with those direct appeals docketed with this Court amounting to approximately only forty percent of this pool of clients. *Id.* Over this same time since the December 2022 law change, the Appellate Defense Division faced a high volume of cases before the CAAF, a high volume of interlocutory appeals and writ-petitions, and multiple time-sensitive petitions to the United States Supreme Court. *Id.* All three of these classes of cases are particularly impactful on an attorney's ability to work cases before this Court because of the timelines involved, with interlocutory appeals taking priority and with cases appealed to the CAAF and the Supreme Court subject to strict timeline requirements. 10 U.S.C. §§ 806b(e)(3)(B), 862(b), 867(b); 28 U.S.C. § 2101(c). The workload demands before the Supreme Court are only increasing, with every appellant seeking review at the CAAF now eligible to petition the Supreme Court. *Id.* at 5-6. Relative to the CAAF and the Supreme Court, this Court has substantially greater flexibility to adjust its deadlines and should do so here. *Compare United States v. Moreno*, 63 M.J. 129, 142 (C.A.A.F. 2006) (setting eighteen months post-docketing with the Court of Criminal Appeals as a trigger for analysis but declining to make it dispositive in light of the possibility of reasonable delay), *with* 10 U.S.C. 867(b) *and* 28 U.S.C. § 2101(c).

Good cause for doing so is even more evident in light of the Appellate Defense Division's multi-faceted efforts to mitigate its workload strain. Multiple long-term absences were filled through support by reservists trained for and experienced in appellate practice. Appendix at 5-6. In 2023, the Appellate Defense Division sought a legislative change to alleviate its workload but was unsuccessful. *Id.* at 6. Also in 2023, the Appellate Defense Division requested eight additional active-duty personnel. *Id.* One civilian has been permanently provided, starting work on 16 December 2024. *Id.* at 1, 6. Assignment of one additional active-duty counsel is scheduled for

2025, but it is unclear whether that is intended as a permanent additional billet. *Id.* at 6. In 2024, the Appellate Defense Division again requested eight additional active-duty personnel, with action pending on that request. *Id.* As of the start of 2025, the Appellate Defense Division has an advertisement for long-term reserve support in an effort to move cases. *Id.*

Having been tasked with doing substantially more work with the same resources, undersigned counsel's docket is such that the ordinary workload precludes—and has precluded—undersigned counsel from finalizing review and briefing of Appellant's case. That workload is to a degree that it may warrant scrutiny of what The Judge Advocate General is doing to ameliorate it. *See Roach*, 66 M.J. at 418; *Moreno*, 63 M.J. at 137. Specific to this motion for reconsideration, because Appellant desires undersigned counsel to review Appellant's case and advocate accordingly, requested extensions on Appellant's behalf should be assessed for good cause only. In light of undersigned counsel's workload and the workload of counsel across the Appellate Defense Division, assessment of a requested extension of time based on a standard requiring a showing of exceptional circumstances risks diluting the import of this Court's order or depriving Appellant of the right to counsel without meeting the requirements set out in *Roach*. 66 M.J. at 418; *see also Douglas v. California*, 372 U.S. 353, 357 (1963) (stressing the importance of the right to counsel in an indigent's first appeal of right).

II. *En banc* reconsideration is necessary.

En banc reconsideration is necessary for at least three reasons. First, as noted above, the requirement to demonstrate exceptional circumstances ignores this Court's rules and clearly established precedent. This Court should decide *en banc* whether the exceptional circumstances requirement is in conflict with applicable law and its rules. Second, a dramatically increasing workload with no additional resources has stretched the appellate defense division to its breaking

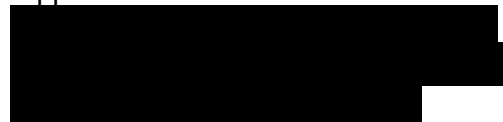
point. Appendix. Despite repeated pleas to the Government for additional manpower, our manpower has remained the same. Appendix. Similarly, pleas to this Court for patience have been ignored; at times, appellate defense counsel have been met with outright hostility. *See, e.g.*, Order, *United States v. Gibbs*, dated 22 November 2024 (referring to counsel’s diligent effort as “sanguine”). This Court should decide *en banc* whether the exceptional circumstances requirement—which creates a fantastic and unrealistic burden on the appellate defense division—should be applied. Third, the exceptional circumstances requirement pits different panels of this Court against one another. Often, this leads to counsel prioritizing newer cases over older ones to satisfy panels that impose this requirement. This creates a conflict not only between panels, but between clients on counsels’ dockets.

This Court should grant this motion, reconsider the part of its order requiring a showing of exceptional circumstances before granting enlargements of time that would expire more than 330 days after docketing *en banc*, and assess future motions for enlargements of time for good cause.

Respectfully Submitted,

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TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

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CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were delivered by e-mail to the Court and served on the Government Trial and Appellate Operations Division on 20 February 2025.



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel



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

UNITED STATES	)	No. ACM S32804
<i>Appellee</i>	)	
	)	
v.	)	
	)	ORDER
Jacob A. GRANT	)	
Airman Basic (E-1)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	Panel 2

On 20 February 2025, Appellant moved for this court to reconsider its order of 5 February 2025 *en banc*. Appellant specifically “moves this Court reconsider the part of its order which requires a showing of exceptional circumstances before granting enlargements of time that would expire more than 330 days after docketing.” Appellant previously moved for panel reconsideration of this court’s order, which the court denied on 19 February 2025. The Government did not file opposition to the motion.

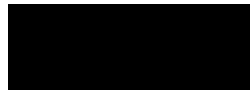
In accordance with Rule 27(c) of The Joint Rules of Appellate Procedure for Courts of Criminal Appeals, Appellee’s motion was transmitted to each judge of the court who was present for duty and not disqualified from participation due to a conflict of interest. No participating judge requested a vote to determine whether the court should reconsider the opinion *en banc*.

Accordingly, it is by the court on this 11th day of February, 2025,
ORDERED:

Appellant’s Motion for Reconsideration *En Banc* is **DENIED**.



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SECOND)
	)	
v.	)	Before Panel 2
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	4 April 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his second enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **15 May 2025**. This case was docketed with this Court on 16 December 2024.¹ From the date of docketing to the present date, 109 days have elapsed. On the date requested, 150 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening

authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.



GRANTED
7 APR 2025

¹ A previous filing of the same name and date erroneously stated that the date of docketing was 16 December 2025. This filing corrects that scrivener’s error. This filing is intended to substitute in the earlier filing’s place.

The ROT is electronic, containing 734 pages including nine prosecution exhibits, six defense exhibits, five appellate exhibits, and one court exhibit. The transcript is 191 pages.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant has consented to this enlargement of time.

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

Respectfully submitted,

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 4 April 2025.

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
	)	Before Panel No. 2
Airman Basic (E-1)	)	
JACOB A. GRANT,	)	No. ACM S32804
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	7 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.

[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 7 April 2025.

[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (THIRD)
	)	
v.	)	Before Panel 2
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	5 May 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his third enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **14 June 2025**. This case was docketed with this Court on 16 December 2024. From the date of docketing to the present date, 140 days have elapsed. On the date requested, 180 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is electronic, containing 734 pages including nine prosecution exhibits, six exhibits, five appellate exhibits, and one court exhibit. The transcript is 191 pages.



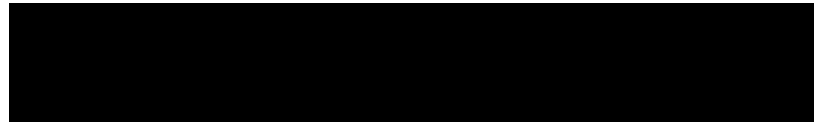
GRANTED
8 MAY 2025

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant has consented to this enlargement of time.

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

Respectfully submitted,

A large black rectangular redaction box covering the signature of Trevor N. Ward.

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

A black rectangular redaction box covering the contact information of Trevor N. Ward.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 5 May 2025.

Respectfully submitted,

A large black rectangular redaction box covering the signature of Trevor N. Ward.

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

A black rectangular redaction box covering the contact information of Trevor N. Ward.

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.	)	
	)	
Airman Basic (E-1)	)	Before Panel No. 2
JACOB A. GRANT,	)	No. ACM S32804
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	7 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.

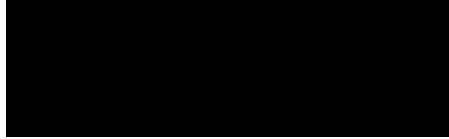
[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 7 May 2025.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FOURTH)
	)	
v.	)	Before Panel 2
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	5 June 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his fourth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **14 July 2025**. This case was docketed with this Court on 16 December 2024. From the date of docketing to the present date, 171 days have elapsed. On the date requested, 210 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is electronic, containing 734 pages including nine prosecution exhibits, six bits, five appellate exhibits, and one court exhibit. The transcript is 191 pages.



GRANTED
9 JUN 2025

Undersigned counsel is assigned 33 cases, 21 cases are pending initial AOE's before this Court. One case before the Court of Appeals for the Armed Forces (CAAF) take priority over this case: *United States v. Washington*. The reply brief in *Washington* is due on 27 June 2025. Undersigned counsel has begun research on the reply brief.

In addition, the following cases with this Court have priority over the instant case.

- 1) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. Undersigned counsel filed the initial brief in this case today, 5 June 2025. The Government's Answer will be due on 7 July 2025, with any reply due on 14 July 2025.
- 2) *United States v. Augustin*, ACM 40655 – The record of trial is eight volumes consisting of 10 prosecution exhibits, seven defense exhibits, 24 appellate exhibits, and one court exhibit. The transcript is 1,201 pages long. Undersigned counsel has not begun a review of this record. However, civilian co-counsel has completed a review of the record.
- 3) *United States v. Ehly*, ACM 23004 – The record of trial is three volumes consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages long. Undersigned counsel has not begun a review of this record.
- 4) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has not begun a review of this record.
- 5) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits, and 27 appellate exhibits. The transcript is 118 pages. Undersigned counsel has not begun a review of this record.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant has consented to this enlargement of time.

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

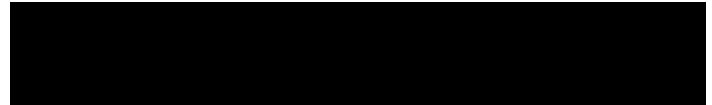
Respectfully submitted,

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 5 June 2025.

Respectfully submitted,

A large black rectangular redaction box covering the signature of Trevor N. Ward.

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

A black rectangular redaction box covering the contact information of Trevor N. Ward.

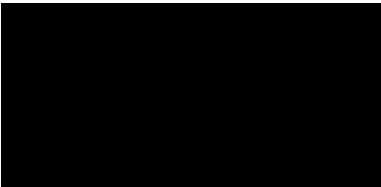
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
Airman Basic (E-1)	)	Before Panel No. 2
JACOB A. GRANT,	)	No. ACM S32804
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	6 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 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.

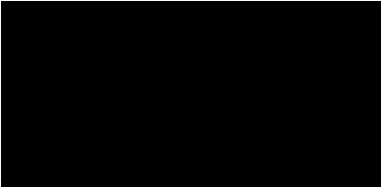

JO [Redacted] USAF
Appellate Government Counsel





CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 6 June 2025.


JC  USAF
Appellate Government Counsel





IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME (FIFTH)
	)	
v.	)	Before Panel 2
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	3 July 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his fifth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **13 August 2025**. This case was docketed with this Court on 16 December 2024. From the date of docketing to the present date, 199 days have elapsed. On the date requested, 240 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is electronic, containing 734 pages including nine prosecution exhibits, six defense exhibits, five appellate exhibits, and one court exhibit. The transcript is 191 pages.



GRANTED

7 JULY 2025

Undersigned counsel is assigned 33 cases, 21 cases are pending initial AOE's before this Court. Two cases at the Supreme Court of the United States take priority over this case: (1) *United States v. Pulley*; and (2) *United States v. Beyer*. Undersigned counsel has not begun work on either petition. Two cases before the Court of Appeals for the Armed Forces also take priority over this case: (1) *United States v. Gibbs* and (2) *United States v. Barlow*. Undersigned counsel has begun research on the supplement brief in *Gibbs*.

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

- 1) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. Undersigned counsel filed the initial brief in this case today on 5 June 2025. The Government has asked this Court for an enlargement to file its Answer, which this appellant opposed.
- 2) *United States v. Augustin*, ACM 40655 – The record of trial is eight volumes consisting of 10 prosecution exhibits, seven defense exhibits, 24 appellate exhibits, and one court exhibit. The transcript is 1,201 pages long. Undersigned counsel has completed a review of the unsealed record, to include more than half of the transcript. Civilian co-counsel has completed a review of the record. One more enlargement will likely be needed to complete briefing in this case.
- 3) *United States v. Ehly*, ACM 23004 – The record of trial is three volumes consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages long. Undersigned counsel has completed a review of the record and has begun working on the opening brief.

- 4) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has not begun a review of this record.
- 5) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits, and 27 appellate exhibits. The transcript is 118 pages. Undersigned counsel has not begun a review of this record.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant has consented to this enlargement of time.

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

Respectfully submitted,

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

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

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

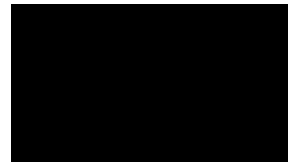
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
Airman Basic (E-1)	)	Before Panel No. 2
JACOB A. GRANT,	)	No. ACM S32804
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	3 July 2025
	)	

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

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

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



KATE E. LEE, Maj, USAF
Appellate Government Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 3 July 2025.



KATE E. LEE, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SIXTH)
	)	
v.	)	Before Panel 2
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	4 August 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his sixth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **12 September 2025**. This case was docketed with this Court on 16 December 2024. From the date of docketing to the present date, 231 days have elapsed. On the date requested, 270 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is electronic, containing 734 pages including nine prosecution exhibits, six exhibits, five appellate exhibits, and one court exhibit. The transcript is 191 pages.



GRANTED
6 AUG 2025

Undersigned counsel is assigned 27 cases, 12 cases are pending initial AOE's before this Court. Four cases at the Supreme Court of the United States takes priority over this case: (1) *United States v. Beyer*; (2) *United States v. Covitz*; (3) *United States v. Pulley*; and (4) *United States v. Arizpe*. Undersigned counsel has not begun work on any of these petitions. One case before the Court of Appeals for the Armed Forces takes priority over this case: (1) *United States Barlow*. Undersigned counsel has begun research on this petition.

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

- 1) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. The Government's Answer is due on 17 August with any reply due on 25 August.
- 2) *United States v. Augustin*, ACM 40655 – The record of trial is eight volumes consisting of 10 prosecution exhibits, seven defense exhibits, 24 appellate exhibits, and one court exhibit. The transcript is 1,201 pages long. Undersigned and civilian co-counsel have completed a review of this case. Undersigned counsel has completed research. However, drafting has not yet begun.
- 3) *United States v. Ehly*, ACM 23004 – The record of trial is three volumes consisting of three prosecution exhibits and 14 appellate exhibits. The transcript is 183 pages long. The Government's Answer is due on 7 August with any reply due on 14 August.
- 4) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has not begun a review of this record.

- 5) *United States v. Sawyer*, ACM 40670 – The record of trial is five volumes consisting of 10 prosecution exhibits, 16 defense exhibits, and 25 appellate exhibits. The transcript is 245 pages long. Undersigned counsel has completed a review of the record and has identified several potential errors. Undersigned counsel has begun research on those errors and has begun drafting the AOE.
- 6) *United States v. Hon*, ACM 40671 – The record of trial is six volumes long consisting of 14 prosecution exhibits, seven defense exhibits, 28 appellate exhibits, and one court exhibit. The transcript is 483 pages long.
- 7) *United States v. Parra Peralta*, ACM 40684 – The record of trial is eight volumes long consisting of 13 prosecution exhibits, 13 defense exhibits, 67 appellate exhibits, and one court exhibit. The transcript is 744 pages long.
- 8) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits, and 27 appellate exhibits. The transcript is 118 pages. Undersigned counsel has not begun a review of this record.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant has consented to this enlargement of time.

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

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 4 August 2025.

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.	)	
	)	
Airman Basic (E-1)	)	Before Panel No. 2
JACOB A. GRANT,	)	No. ACM S32804
United States Air Force,	)	
<i>Appellant.</i>	)	5 August 2025
	)	

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

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

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

[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 5 August 2025.

[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME(SEVENTH)
	)	
v.	)	Before Panel 2
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	2 September 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his seventh enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **12 October 2025**. This case was docketed with this Court on 16 December 2024. From the date of docketing to the present date, 260 days have elapsed. On the date requested, 300 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is electronic, containing 734 pages including nine prosecution exhibits, six



, five appellate exhibits, and one court exhibit. The transcript is 191 pages.

GRANTED
3 SEP 2025

Undersigned counsel is assigned 27 cases, 12 cases are pending initial AOE's before this Court. Three cases at the Supreme Court of the United States takes priority over this case: (1) *United States v. Beyer*; (2) *United States v. Covitz*; and (3) *United States v. Pulley*. Undersigned counsel has not begun work on any of these petitions. One case before the Court of Appeals for the Armed Forces takes priority over this case: *United States Barlow*. Undersigned counsel has begun research on this petition. However, newly discovered evidence has resulted in an extension request to the CAAF and additional post-trial work must be conducted by undersigned counsel.

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

- 1) *United States v. Evangelista*, ACM 40531 – The record of trial is 10 volumes, consisting of 56 appellate exhibits, 18 prosecution exhibits, 12 defense exhibits, and one court exhibit; the transcript is 1,439 pages. The Government filed its Answer on 18 August 2025. However, this filing was not received by lead counsel until a week later, on 25 August 2025. Counsel have sought a twenty-one day extension to 8 September 2025. This Court has not acted on that extension request.
- 2) *United States v. Augustin*, ACM 40655 – The record of trial is eight volumes consisting of 10 prosecution exhibits, seven defense exhibits, 24 appellate exhibits, and one court exhibit. The transcript is 1,201 pages long. The initial brief was filed in this case. The Government's Answer is due on 22 September 2025, with any reply due on 27 September 2025.
- 3) *United States v. Sawyer*, ACM 40670 – The record of trial is five volumes consisting of 10 prosecution exhibits, 16 defense exhibits, and 25 appellate exhibits. The transcript is 245 pages long. The initial brief was filed in this case. The Government's Answer is due on 29 September 2025, with any reply due on 6 October 2025.

- 4) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has begun a review of this record.
- 5) *United States v. Hon*, ACM 40671 – The record of trial is six volumes long consisting of 14 prosecution exhibits, seven defense exhibits, 28 appellate exhibits, and one court exhibit. The transcript is 483 pages long.
- 6) *United States v. Parra Peralta*, ACM 40684 – The record of trial is eight volumes long consisting of 13 prosecution exhibits, 13 defense exhibits, 67 appellate exhibits, and one court exhibit. The transcript is 744 pages long.
- 7) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits, and 27 appellate exhibits. The transcript is 118 pages. Undersigned counsel has not begun a review of this record.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant has consented to this enlargement of time.

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

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 2 September 2025.

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

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
Airman Basic (E-1)	)	
JACOB A. GRANT,	)	No. ACM S32804
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	5 August 2025
	)	

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 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.

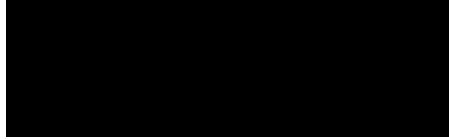
[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 2 September 2025.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



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

UNITED STATES	)	No. ACM S32804
<i>Appellee</i>	)	
	)	
v.	)	
	)	ORDER
Jacob A. GRANT	)	
Airman Basic (E-1)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	Panel 2

On 3 October 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, case law, and this court's Rules of Practice and Procedure. Accordingly, it is by the court on this 6th day of October, 2025,

ORDERED:

Appellant's Motion for Enlargement of Time (Eighth) is **GRANTED**. Appellant shall file any assignments of error not later than **11 November 2025**.

Appellant's counsel is advised that given the number of enlargements granted thus far, any further requests for an enlargement of time may necessitate a status conference.



FOR THE COURT

[Redacted signature block]

JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

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
Airman Basic (E-1)	)	
JACOB A. GRANT,	)	No. ACM S32804
United States Air Force,	)	
<i>Appellant.</i>	)	
	)	3 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 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.

[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 3 October 2025.

[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (EIGHTH)
	)	
v.	)	Before Panel 2
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	3 October 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his eighth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **11 November 2025**. This case was docketed with this Court on 16 December 2024. From the date of docketing to the present date, 291 days have elapsed. On the date requested, 330 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is electronic, containing 734 pages including nine prosecution exhibits, six defense exhibits, five appellate exhibits, and one court exhibit. The transcript is 191 pages.

Undersigned counsel is assigned 29 cases, 9 cases are pending initial AOE's before this Court. Three cases at the Supreme Court of the United States takes priority over this case: (1) *United States v. Beyer*; (2) *United States v. Covitz*; and (3) *United States v. Pulley*. Undersigned counsel has not begun work on any of these petitions. Due to the extraordinary circumstances in the below referenced Court of Appeals for the Armed Forces (CAAF) case, the undersigned has requested, or will request, 60-day extensions for these Supreme Court petitions.

One case before the CAAF takes priority over this case: *United States Barlow*. Undersigned counsel has begun research on this supplement and had begun drafting. However, newly discovered evidence has resulted in an extension request to the CAAF and additional post-trial work must be conducted by undersigned counsel. Undersigned counsel has conducted research for a motion to remand and a petition for a new trial. The supplement and motion to remand will be filed at the CAAF next week. The petition for a new trial will be filed shortly thereafter.

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

- 1) *United States v. Augustin*, ACM 40655 – The record of trial is eight volumes consisting of 10 prosecution exhibits, seven defense exhibits, 24 appellate exhibits, and one court exhibit. The transcript is 1,201 pages long. The initial brief was filed in this case. The Government's Answer is due on 6 October 2025, with any reply due on 13 September 2025.
- 2) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has completed his review of the record, has identified several potential errors, and has begun research. Based on that research, undersigned counsel requested the appointment of a confidential expert consultant. However, the

Government denied that request. Undersigned counsel will be moving for this Court to appoint an expert in due course.

- 3) *United States v. Hon*, ACM 40671 – The record of trial is six volumes long consisting of 14 prosecution exhibits, seven defense exhibits, 28 appellate exhibits, and one court exhibit. The transcript is 483 pages long. Undersigned counsel has not begun his review.
- 4) *United States v. Parra Peralta*, ACM 40684 – The record of trial is eight volumes long consisting of 13 prosecution exhibits, 13 defense exhibits, 67 appellate exhibits, and one court exhibit. The transcript is 744 pages long. Undersigned counsel has not begun his review.
- 5) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits, and 27 appellate exhibits. The transcript is 118 pages. Undersigned counsel has not begun a review of this record. Undersigned counsel has not begun his review.

In addition to his duties as an appellate defense counsel, undersigned counsel was selected to serve as the backfill to the Director of Staff for the Military Justice and Discipline Directorate. This has required several hours of training this week. In addition, undersigned counsel will be backfilling the position from 9-13 October 2025.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant's case. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.

(4) Appellant has consented to this enlargement of time.

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

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

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

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (NINTH)
	)	
v.	)	Before Panel 2
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	31 October 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his ninth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **11 December 2025**. This case was docketed with this Court on 16 December 2024. From the date of docketing to the present date, 319 days have elapsed. On the date requested, 360 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is electronic, containing 734 pages including nine prosecution exhibits, six

1. Court exhibits, five appellate exhibits, and one court exhibit. The transcript is 191 pages.



GRANTED

7 Nov 2025

Undersigned counsel is assigned 27 cases, 10 cases are pending initial AOE's before this Court. Three cases at the Supreme Court of the United States take priority over this case: (1) *United States v. Beyer*; (2) *United States v. Covitz*; and (3) *United States v. Pulley*. All three petitions are due to the Supreme Court in late November and early December. Undersigned counsel has begun work on *Covitz* and *Beyer*.

One case before the CAAF takes priority over this case: *United States v. Cooley*. Undersigned counsel inherited this case from another counsel. The undersigned has completed a review of the record and has completed research for the supplement. The supplement brief is due on 12 November 2025.

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

- 1) *United States v. Augustin*, ACM 40655 – The record of trial is eight volumes consisting of 10 prosecution exhibits, seven defense exhibits, 24 appellate exhibits, and one court exhibit. The transcript is 1,201 pages long. The initial brief was filed in this case. The reply is due on 3 November 2025. Undersigned counsel is presently drafting that reply.
- 2) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has completed his review of the record, has identified several potential errors, and has begun research. Based on that research, undersigned counsel requested the appointment of a confidential expert consultant. However, the Government denied that request. Undersigned counsel will be moving for this Court to appoint an expert in due course.

- 3) *United States v. Hon*, ACM 40671 – The record of trial is six volumes long consisting of 14 prosecution exhibits, seven defense exhibits, 28 appellate exhibits, and one court exhibit. The transcript is 483 pages long. Undersigned counsel has not begun his review.
- 4) *United States v. Parra Peralta*, ACM 40684 – The record of trial is eight volumes long consisting of 13 prosecution exhibits, 13 defense exhibits, 67 appellate exhibits, and one court exhibit. The transcript is 744 pages long. Undersigned counsel has not begun his review.
- 5) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits, and 27 appellate exhibits. The transcript is 118 pages. Undersigned counsel has not begun a review of this record. Undersigned counsel has not begun his review.

In addition to his duties as an appellate defense counsel, undersigned counsel was selected to serve as the backfill to the Director of Staff for the Military Justice and Discipline Directorate. This has required several hours of training this week. In addition, undersigned counsel will be backfilling the position from 9-13 October 2025.

On 5 February 2025, this Court ordered that requests for enlargement of time over 330 days would not be granted absent “exceptional circumstances.” The exceptional circumstances in this case are: (1) counsel’s workload and cases older than Appellants; (2) the dramatic increase to the Appellate Defense Division’s workload; and (3) staffing shortages at the Appellate Defense Division. These exceptional circumstances are captured in the Attachment to Appellant’s Motion to Attach, filed on 7 February 2025.

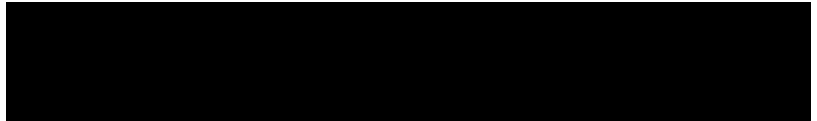
Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant’s case. An enlargement of time is necessary to allow counsel

time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant has consented to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time for good cause shown. Should this Court believe denial of this EOT appropriate, Appellant demands a status conference.

Respectfully submitted,

A large black rectangular redaction box covering the signature area.

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

A black rectangular redaction box covering the contact information.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 31 October 2025.

Respectfully submitted,

A large black rectangular redaction box covering the signature area.

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

A black rectangular redaction box covering contact information, with a smaller rectangular redaction box positioned below it.

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman Basic (E-1)	)	Before Panel No. 2
JACOB A. GRANT,	)	
United States Air Force,	)	No. ACM S32804
<i>Appellant.</i>	)	
	)	4 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 nearly a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 360 days in length. Appellant’s nearly year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed almost two thirds of the 18 month standard for this Court to issue a decision, which only leaves about 6 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not completed review of the record at this late stage in the process.

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

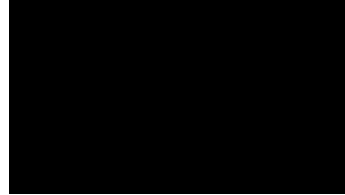


KATE E. LEE, Maj, USAF
Appellate Government Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 4 November 2025.



KATE E. LEE, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (TENTH)
	)	
v.	)	Before Panel 2
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	2 December 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his tenth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **10 January 2026**. This case was docketed with this Court on 16 December 2024. From the date of docketing to the present date, 351 days have elapsed. On the date requested, 390 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is electronic, containing 734 pages including nine prosecution exhibits, six

appellate exhibits, five appellate exhibits, and one court exhibit. The transcript is 191 pages.



GRANTED
11 DEC 2025

Undersigned counsel is assigned 27 cases, 11 cases are pending initial AOE's before this Court. Two cases before the Supreme Court take priority over this case: (1) *United States v. Pulley*; and (2) *United States v. Hilton*. The *Pulley* petition is drafted and going through review now. It will likely be sent to the printer by end of week. Undersigned counsel inherited *Hilton* from another attorney. A review of that record will be necessary before working on the petition. The record is fifteen volumes long, with a transcript that is 2,747 pages. The petition is due to the Supreme Court in mid-January 2026.

One case before the CAAF takes priority over this case: *United States v. Barlow*. The CAAF denied the petition for grant of review and that appellant's motion to remand to this Court for further proceedings. Undersigned counsel will be preparing a motion to reconsider those decisions this week, and a petition for a new trial next week. Undersigned counsel inherited this case from another counsel. The undersigned has completed a review of the record and has completed research for the supplement. The supplement brief is due on 12 November 2025

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

- 1) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has completed his review of the record, has identified several potential errors, and has begun research and drafting. However, drafting cannot be completed until work in *Barlow* before the CAAF is complete.
- 2) *United States v. Hon*, ACM 40671 – The record of trial is six volumes long consisting of 14 prosecution exhibits, seven defense exhibits, 28 appellate exhibits, and one court exhibit. The transcript is 483 pages long. Undersigned counsel has not begun his review.

- 3) *United States v. Parra Peralta*, ACM 40684 – The record of trial is eight volumes long consisting of 13 prosecution exhibits, 13 defense exhibits, 67 appellate exhibits, and one court exhibit. The transcript is 744 pages long. Undersigned counsel has not begun his review.
- 4) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits, and 27 appellate exhibits. The transcript is 118 pages. Undersigned counsel has not begun a review of this record. Undersigned counsel has not begun his review.

In addition to his duties as an appellate defense counsel, undersigned counsel was selected to serve as the backfill to the Director of Staff for the Military Justice and Discipline Directorate. Undersigned counsel will be backfilling from 26 December until 2 January 2025.

On 5 February 2025, this Court ordered that requests for enlargement of time over 330 days would not be granted absent “exceptional circumstances.” The exceptional circumstances in this case are: (1) counsel’s workload and cases older than Appellants; (2) the dramatic increase to the Appellate Defense Division’s workload; and (3) staffing shortages at the Appellate Defense Division. These exceptional circumstances are captured in the Attachment to Appellant’s Motion to Attach, filed on 7 February 2025.

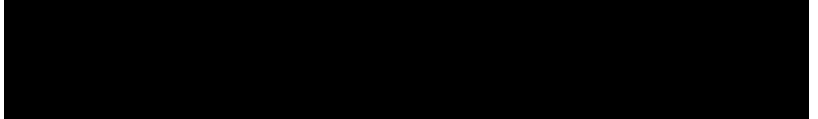
Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant’s case. An enlargement of time is necessary to allow counsel time to fully review Appellant’s case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel’s progress on his case.

(4) Appellant has consented to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time for good cause shown. Should this Court believe denial of this EOT appropriate, Appellant demands a status conference.

Respectfully submitted,

A large black rectangular redaction box covering the signature and name of the Appellate Defense Counsel.

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

A black rectangular redaction box covering the contact information of the Appellate Defense Counsel.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 2 December 2025.

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

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
Airman Basic (E-1)	)	
JACOB A. GRANT,	)	No. ACM S32804
United States Air Force.	)	
<i>Appellant</i>	)	3 December 2025

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

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 390 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 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.

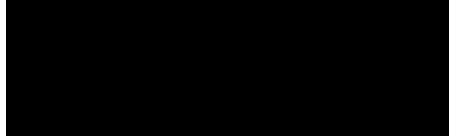
[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 3 December 2025.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



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

UNITED STATES	)	No. ACM S32804
<i>Appellee</i>	)	
	)	
v.	)	
	)	
Jacob A. GRANT	)	NOTICE OF PANEL
Airman Basic (E-1)	)	CHANGE
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 2 and referred to Panel 1 for appellate review.

This panel letter supersedes all previous panel assignments.



FOR THE COURT



JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

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

UNITED STATES	)	No. ACM S32804
<i>Appellee</i>	)	
	)	
v.	)	
	)	ORDER
Jacob A. GRANT	)	
Airman Basic (E-1)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	Panel 1

On 31 December 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 opposes the motion.

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

Accordingly, it is by the court on this 6th day of January, 2026,

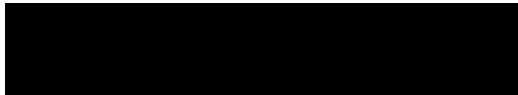
ORDERED:

Appellant's Motion for Enlargement of Time (Eleventh) is **GRANTED**. Appellant shall file any assignments of error not later than **9 February 2026**.

Appellant's counsel is advised that given the number of enlargements granted thus far, any further requests for an enlargement of time may necessitate a status conference.



FOR THE COURT



JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME
	)	(ELEVENTH)
	)	
v.	)	Before Panel 1
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	31 December 2025
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his eleventh enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **9 February 2026**. This case was docketed with this Court on 16 December 2024. From the date of docketing to the present date, 390 days have elapsed. On the date requested, 420 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is electronic, containing 734 pages including nine prosecution exhibits, six defense exhibits, five appellate exhibits, and one court exhibit. The transcript is 191 pages.

Undersigned counsel is assigned 27 cases, 11 cases are pending initial AOE's before this Court. One case before the Supreme Court takes priority over this case: *United States v. Hilton*. Undersigned counsel inherited *Hilton* from another attorney. A review of that record will be necessary before working on the petition, which is currently ongoing. The record is fifteen volumes long, with a transcript that is 2,747 pages. The petition is due to the Supreme Court in mid-January 2026.

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

- 1) *United States v. Hon*, ACM 40671 – The record of trial is six volumes long consisting of 14 prosecution exhibits, seven defense exhibits, 28 appellate exhibits, and one court exhibit. The transcript is 483 pages long. Undersigned counsel has completed a review of the record, has conducted research, and is currently conducting additional investigation based on information provided by this appellant.
- 2) *United States v. Parra Peralta*, ACM 40684 – The record of trial is eight volumes long consisting of 13 prosecution exhibits, 13 defense exhibits, 67 appellate exhibits, and one court exhibit. The transcript is 744 pages long. Undersigned counsel has begun a review of this record, but must still review approximately 500 pages of transcript.
- 3) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel has completed his review of the record, has identified several potential errors, and has begun research and drafting.
- 4) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits, and 27 appellate exhibits. The transcript is 118 pages. Undersigned counsel has not begun a review of this record. Undersigned counsel has not begun his review.

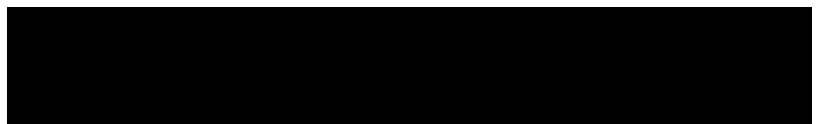
On 5 February 2025, this Court ordered that requests for enlargement of time over 330 days would not be granted absent “exceptional circumstances.” The exceptional circumstances in this case are: (1) counsel’s workload and cases older than Appellants; (2) the dramatic increase to the Appellate Defense Division’s workload; and (3) staffing shortages at the Appellate Defense Division. These exceptional circumstances are captured in the Attachment to Appellant’s Motion to Attach, filed on 7 February 2025.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief of Appellant’s case. An enlargement of time is necessary to allow counsel time to fully review Appellant’s case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel’s progress on his case.
- (4) Appellant has consented to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time for good cause shown. Should this Court believe denial of this EOT appropriate, Appellant demands a status conference.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 31 December 2025.

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman Basic (E-1)	)	Before Panel No. 1
JACOB A. GRANT,	)	
United States Air Force,	)	No. ACM S32804
<i>Appellant.</i>	)	
	)	5 January 2026
	)	

**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.

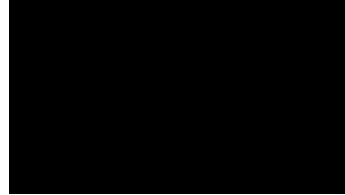


KATE E. LEE, Maj, USAF
Appellate Government Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 5 January 2026.



KATE E. LEE, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT'S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME
	)	(TWELFTH)
	)	
v.	)	Before Panel 1
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	2 February 2026
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for his twelfth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **11 March 2026**. This case was docketed with this Court on 16 December 2024. From the date of docketing to the present date, 413 days have elapsed. On the date requested, 450 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.



The ROT is electronic, containing 734 pages including nine prosecution exhibits, six e exhibits, five appellate exhibits, and one court exhibit. The transcript is 191 pages.

GRANTED
9 FEB 2026

Undersigned counsel is assigned 16 cases, 8 cases are pending initial AOE's before this Court. One case before the Supreme Court takes priority over this case: *United States v. Hilton*. Undersigned counsel inherited *Hilton* from another attorney. A review of that record will be necessary before working on the petition, which is currently ongoing. The record is fifteen volumes long, with a transcript that is 2,747 pages. The petition is due to the Supreme Court in mid-January 2026. One case before the Court of Appeals for the Armed Forces also takes priority: *United States v. Evangelista*. The petition is due next week and the supplement brief will be due in early March.

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

- 1) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel filed an opening brief in this case last week. The Government answer is due on 2 March 2026, with any reply due on 9 March 2026.
- 2) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits, and 27 appellate exhibits. The transcript is 118 pages. Undersigned counsel has not begun a review of this record, however this Court issued an order denying, in part, the most recent enlargement of time. Due to the fact that (1) undersigned counsel has not yet begun a review of this record and (2) has two cases of a higher priority than this one, undersigned counsel will seek additional time to complete this brief.

On 5 February 2025, this Court ordered that requests for enlargement of time over 330 days would not be granted absent “exceptional circumstances.” The exceptional circumstances in this case are: (1) counsel’s workload and cases older than Appellants; (2) the dramatic increase to the

Appellate Defense Division's workload; and (3) staffing shortages at the Appellate Defense Division. These exceptional circumstances are captured in the Attachment to Appellant's Motion to Attach, filed on 7 February 2025.

Through no fault of Appellant, undersigned counsel has been able to begin a review of Appellant's record.¹ An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant has consented to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time for good cause shown. Should this Court believe denial of this EOT appropriate, Appellant demands a status conference.

Respectfully submitted,

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

¹ Other than a review of those parts of the record necessary to complete enlargements of time (i.e., the entry of judgement, cover page, and four pages of the transcript), undersigned counsel has not reviewed any part of Appellant's record.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 2 February 2026.

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES'
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Airman Basic (E-1)	)	Before Panel No. 1
JACOB A. GRANT,	)	
United States Air Force,	)	No. ACM S32804
<i>Appellant.</i>	)	
	)	4 February 2026
	)	

**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 started 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.

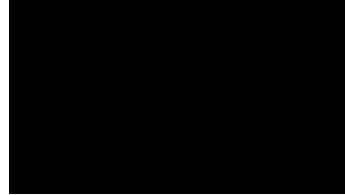


KATE E. LEE, Maj, USAF
Appellate Government Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 4 February 2026.



KATE E. LEE, Maj, USAF
Appellate Government Counsel



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

UNITED STATES	)	No. ACM 32804
<i>Appellee</i>	)	
	)	
v.	)	
	)	ORDER
Jacob A. GRANT	)	
Airman Basic (E-1)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	Panel 1

On 3 March 2026, counsel for Appellant submitted a motion for an Enlargement of Time (“Twelfth”) requesting an additional 30 days to submit Appellant’s assignments of error. The Government opposed the motion.

The court notes that Appellant’s counsel incorrectly refers to the instant motion as the twelfth request for an enlargement of time when it is the thirteenth such request. Nonetheless, the court treats this as a scrivener's error and accepts Appellant's motion in the interests of judicial economy.

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 9th day of March, 2026,

ORDERED:

Appellant’s Motion for Enlargement of Time (Thirteenth) is **GRANTED**. Appellant shall file any assignments of error not later than **10 April 2026**.



FOR THE COURT


JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME
	)	(TWELFTH)
	)	
v.	)	Before Panel 1
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	3 March 2026
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his twelfth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **10 April 2026**. This case was docketed with this Court on 16 December 2024. From the date of docketing to the present date, 442 days have elapsed. On the date requested, 480 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.

The ROT is electronic, containing 734 pages including nine prosecution exhibits, six defense exhibits, five appellate exhibits, and one court exhibit. The transcript is 191 pages.

Undersigned counsel is assigned 16 cases, 8 cases are pending initial AOE's before this Court. One case before the Court of Appeals for the Armed Forces also takes priority: *United States v. Evangelista*. The supplement is due this week. Undersigned counsel is drafting the supplement this week, with an anticipated completion date of today, 3 March 2026.

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

- 1) *United States v. Lawrence*, ACM 20464 – The record of trial is two volumes consisting of 13 prosecution exhibits, 10 defense exhibits, and five appellate exhibits. The transcript is 126 pages long. Undersigned counsel received the Government's Answer last night and will begin working the reply once the supplement brief in *Evangelista* is complete. The reply is due Monday, 9 March 2026.
- 2) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits, and 27 appellate exhibits. The transcript is 118 pages. Undersigned counsel has not begun a review of this record, but has already identified several errors based on conversations with this appellant.¹ Review of this case will begin once *Evangelista* and *Lawrence* are concluded.

On 5 February 2025, this Court ordered that requests for enlargement of time over 330 days would not be granted absent "exceptional circumstances." The exceptional circumstances in this case are: (1) counsel's workload and cases older than Appellants; (2) the dramatic increase to the Appellate Defense Division's workload; and (3) staffing shortages at the Appellate Defense Division. These exceptional circumstances are captured in the Attachment to Appellant's Motion to Attach, filed on 7 February 2025.

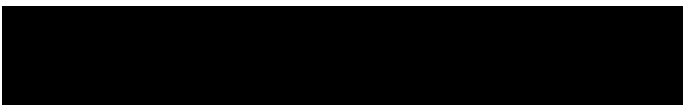
¹ This appellant has given limited consent to disclose this attorney-client privileged communication.

Through no fault of Appellant, undersigned counsel has been able to begin a review of Appellant's record.² An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant has consented to this enlargement of time.

WHEREFORE, Appellant respectfully requests that this Honorable Court grant the requested enlargement of time for good cause shown. Should this Court believe denial of this EOT appropriate, Appellant demands a status conference.

Respectfully submitted,



TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel



² Other than a review of those parts of the record necessary to complete enlargements of time (i.e., the entry of judgement, cover page, and four pages of the transcript), undersigned counsel has not reviewed any part of Appellant's record.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 3 March 2026.

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

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. 1
Airman Basic (E-1)	)	
JACOB A. GRANT,	)	No. ACM S32804
United States Air Force.	)	
<i>Appellant</i>	)	4 March 2026

**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 480 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 2 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not started 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.

[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 4 March 2026.

[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	CONSENT MOTION TO
<i>Appellee,</i>	)	EXAMINE SEALED MATERIAL
	)	
v.	)	Before Panel No. 1
	)	
Airman Basic (AB)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force,	)	March 30, 2026
<i>Appellant.</i>	)	

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

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

- 1) **Prosecution Exhibit 3.** This exhibit purportedly contains explicit material which was offered by the Government and admitted by the military judge during Appellant’s guilty plea. Government counsel, defense counsel, and military judge reviewed this material.

In accordance with R.C.M. 1113(b)(3)(B)(i), which requires a colorable showing that examination of these matters is reasonably necessary to appellate counsels’ responsibilities, undersigned counsel asserts that review of the referenced exhibit is necessary to conduct a complete review of the record of trial and be in a position to advocate competently on behalf of Appellant. Prosecution Exhibit 3 was used as part of the evidence to convict Appellant. It was also used to assess his sentence. A review of this material is necessary for counsel to assess sentence severity as well as the providence of Appellant’s plea.

Moreover, a review of the entire record of trial is necessary because this Court is empowered by Article 66, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 866, to grant

relief based on a review and analysis of “the entire record.” To determine whether the record of trial yields grounds for this Court to grant relief under Article 66, UCMJ, 10 U.S.C. § 866, appellate defense counsel must, therefore, examine “the entire record.”

Although Courts of Criminal Appeals have a broad mandate to review the record unconstrained by an appellant's assignments of error, that broad mandate does not reduce the importance of adequate representation. As we said in *United States v. Ortiz*, 24 M.J. 323, 325 (C.M.A. 1987), independent review is not the same as competent appellate representation.

United States v. May, 47 M.J. 478, 481, (C.A.A.F. 1998). The sealed material referenced above must be reviewed to ensure undersigned counsel provides “competent appellate representation.” *Id.* Accordingly, examination of this exhibit is reasonably necessary since undersigned counsel cannot fulfill his duty of representation under Article 70, UCMJ, 10 U.S.C. § 870, without first reviewing the complete record of trial.

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

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

Respectfully submitted,

A large black rectangular redaction box covering the signature and name of the undersigned.

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

A black rectangular redaction box covering the contact information of the undersigned.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on March 30, 2026.

Respectfully submitted,

[REDACTED]

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

[REDACTED]

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

UNITED STATES	)	No. ACM S32804
<i>Appellee</i>	)	
	)	
v.	)	
	)	ORDER
Jacob A. GRANT	)	
Airman Basic (E-1)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	Panel 1

On 30 March 2026, counsel for Appellant submitted a Consent Motion to Examine Sealed Material. Specifically, counsel seeks to examine Prosecution Exhibit 3 in Appellant’s record of trial.

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

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

Accordingly, it is by the court on this 1st day of April, 2026,

ORDERED:

Appellant’s Motion to Examine Sealed Material is **GRANTED**.

Appellate defense counsel and appellate government counsel may view **Prosecution Exhibit 3** in Appellant’s record of trial, subject to the following conditions:

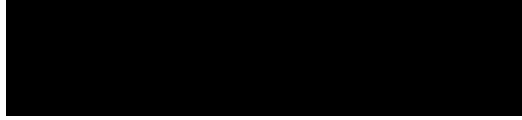
To view the sealed materials, counsel will coordinate with the court.

It is further ordered:

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



FOR THE COURT



JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	APPELLANT'S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME
	)	(FOURTEENTH)
	)	
v.	)	Before Panel 1
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT,	)	
United States Air Force	)	31 March 2026
<i>Appellant.</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves for his fourteenth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **10 May 2026**. This case was docketed with this Court on 16 December 2024. From the date of docketing to the present date, 470 days have elapsed. On the date requested, 510 days will have elapsed.

On 10 April 2024, R. at 1, Appellant was tried by a military judge alone sitting as a special court-martial. R. at 11. Consistent with his pleas, R. at 12, Appellant was found guilty of one charge and three specifications of broadcast of an intimate image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ). R. at 132. The military judge sentenced Appellant to a reprimand, confinement for 90 days, and a bad-conduct discharge. R. at 190. The convening authority took no action on the findings or sentence. Convening Authority Decision on Action. Appellant is not confined.



The ROT is electronic, containing 734 pages including nine prosecution exhibits, six exhibits, five appellate exhibits, and one court exhibit. The transcript is 191 pages.

GRANTED

1 APR 2026

Undersigned counsel is assigned 14 cases, 6 cases are pending initial AOE's before this Court. One case before the Court of Appeals for the Armed Forces also takes priority: *United States v. Augustin*. The supplement is due next week. Undersigned counsel is drafting the supplement this week, with an anticipated completion date of today, 2 April 2026.

In addition, the following case before this Court has priority over the instant case.

- 1) *United States v. Turner*, ACM 24067 – The record of trial is six volumes long, consisting of three prosecution exhibits, and 27 appellate exhibits. The transcript is 118 pages. Undersigned counsel has filed the initial AOE brief. The Government Answer is due on 22 April 2026, with any reply due on 29 April 2026.

On 5 February 2025, this Court ordered that requests for enlargement of time over 330 days would not be granted absent “exceptional circumstances.” The exceptional circumstances in this case are: (1) counsel’s workload and cases older than Appellants; (2) the dramatic increase to the Appellate Defense Division’s workload; and (3) staffing shortages at the Appellate Defense Division. These exceptional circumstances are captured in the Attachment to Appellant’s Motion to Attach, filed on 7 February 2025.

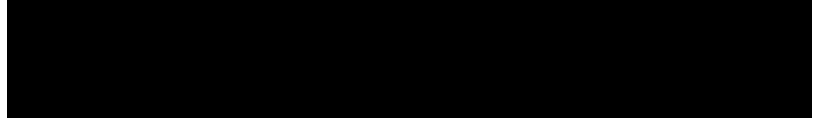
Undersigned counsel has begun a review of this record, to include the exhibits. Yesterday, the undersigned filed a consent motion to review sealed material. However, additional time is necessary to complete a review of the record, conduct research, and draft any assignments of error. Due to this, and the cases currently taking priority over Appellant’s case, division leadership has detailed a reservist to complete work on this case, which Appellant has consented to. The reservist is Major Thomas Govan. Maj Govan has received a copy of the record and has begun his review.

Through no fault of Appellant, assigned counsel have been unable to complete a review of Appellant's record. An enlargement of time is necessary to allow counsel time to fully review Appellant's case and advise Appellant regarding potential errors. Appellant has provided limited consent to disclose confidential communications, wherein:

- (1) Appellant has been advised of his right to a timely appeal.
- (2) Appellant has been advised of this request for enlargement of time.
- (3) Appellant has been apprised of the status of undersigned counsel's progress on his case.
- (4) Appellant has consented to this enlargement of time.

WHEREFORE, Appellant requests that this Court grant the requested enlargement of time for good cause shown. Should this Court believe denial of this EOT appropriate, Appellant requests a status conference.

Respectfully submitted,

A large black rectangular redaction box covering the signature area.

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

A black rectangular redaction box covering the contact information.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 31 March 2026.

Respectfully submitted,

A large black rectangular redaction box covering the signature area.

TREVOR N. WARD, Maj, USAF
Appellate Defense Counsel

A black rectangular redaction box covering the contact information.

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. 1
Airman Basic (E-1)	)	
JACOB A. GRANT,	)	No. ACM S32804
United States Air Force.	)	
<i>Appellant</i>	)	31 March 2026

**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 510 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 1 month 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.

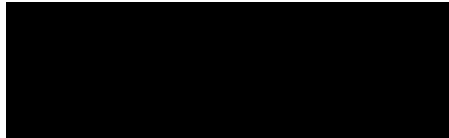


VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



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 31 March 2026.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES <i>Appellee</i>	)	BRIEF ON BEHALF OF
	)	APPELLANT
	)	
v.	)	Before Panel No. 1
	)	
Airman Basic (E-1) ¹	)	No. ACM S32804
JACOB A. GRANT	)	
United States Air Force	)	11 May 2026
<i>Appellant</i>	)	

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

Assignments of Error

- I. WHETHER APPELLANT WAS SUBJECT TO THE PERSONAL JURISDICTION OF THE COURT-MARTIAL.**

- II. WHETHER APPROPRIATE SENTENCING RELIEF IS WARRANTED BECAUSE OF THE 249-DAY DELAY BETWEEN SENTENCING AND DOCKETING WITH THIS COURT.**

Statement of the Case

On 10-11 April 2024, a special court-martial composed of a military judge sitting alone tried Appellant, Jacob A. Grant, at Kunsan Air Base, South Korea. R. at 1, 154. Consistent with Appellant’s pleas, the military judge found him guilty of one charge and three specifications of wrongful broadcast of an intimate visual image, in violation of Article 117a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 917a. R. at 132; Entry of Judgment (EOJ). The military judge sentenced Appellant to a bad-conduct discharge, 90 days of total confinement, and a

¹ Appellant includes the rank reflected on the cover of the record of trial in this caption but omits it in the remainder of this brief in light of Appellant’s discharge before his court-martial, making him a civilian.

reprimand. R. at 190, EOJ. The convening authority took no action on the findings or the sentence. Convening Authority Decision on Action, 25 April 2024.

Statement of Facts

In 2020, Appellant and BD began a non-exclusive, intimate relationship. Prosecution Exhibit (Pros. Ex.) 1 at 1. During Appellant's deployment from 31 December 2020 to 25 July 2021, BD sent him nude images and videos. Pros. Ex. 1 at 2. BD knew Appellant had saved the images and videos to his phone, and she later communicated to him to not share the images and videos with anyone else. Pros. Ex. 1 at 2.

After returning from deployment, Appellant and BD continued their relationship and, on occasion, consensually recorded sex acts on each other's phones. Pros. Ex. 1 at 2. In March 2022, Appellant and BD ended their relationship on good terms. Pros. Ex. 1 at 2. In October 2022, Appellant received nonjudicial punishment for a violation of Article 117a, UCMJ, for broadcasting intimate images of BD on his Instagram social media account. Pros. Ex. 1 at 2.

Later in January 2023, BD discovered videos of herself in various stages of undress or engaging in sex acts on other social media accounts, specifically, Reddit, Twitter, and Snapchat. Pros. Ex. 1 at 2-3. BD contacted the Air Force Office of Special Investigations on 17 January 2023. Pros. Ex. 1 at 4. Appellant subsequently was charged with three specifications of wrongful broadcast of an intimate visual image relating to depictions found on the three social media accounts. Pros. Ex. 1 at 4-6.

Argument

I. Appellant was not subject to the personal jurisdiction of the court-martial.

A. Additional Facts

The charge and specifications were preferred on Appellant on 28 June 2023. Ruling: Jurisdiction over the accused, 6 May 2024² (“Ruling”) at 1. The charge and specifications were originally referred to a general court-martial, R. at 5, and were later withdrawn, but not dismissed. Ruling at 1. The charge and specifications were re-referred to a special court-martial on 2 April 2024. Ruling at 1.

Appellant’s court-martial occurred on 10-11 April 2024. R. at 1, 154. But Appellant’s expiration of term of service was prior to his trial on 28 March 2024. R. at 101; *see also* Ruling at 2. The Air Force never placed a hold on Appellant. Ruling at 2. An official DD Form 214 was issued for and received by Appellant for the completion of his term of active service, with his separation date of 28 March 2024. Appellate Exhibit (App. Ex.) IV.

The military judge discovered both that Appellant’s term of service had expired and that no hold had been placed on him prior to the expiration of his term of service during the *Care*³ inquiry. R. at 101. The record developed during the *Care* inquiry evidenced several consequences Appellant encountered as a result of his separation. For example, Appellant was unable to log into Air Force systems at the time of trial with his common access card (CAC). R. at 119, 121. Appellant had applied for a new CAC after his expiration of term of service, but he was denied because he was displayed in Air Force systems as either “separated or out-processing.” R. at 130. Appellant was then issued a temporary CAC that expired in three months. *Id.* He also completed

² This post-trial ruling was included as an attachment to the EOJ.

³ *United States v. Care*, 40 C.M.R. 247 (C.M.A. 1969).

the transition assistance program and was medically out-processed. R. at 123. Moreover, Appellant received his final paycheck and was in a “no-pay status.” *Id.* Defense counsel confirmed with the finance section that Appellant had received his final paycheck for the pay period through the expiration of his term of service on 28 March 2024. R. at 128. Although there was a possibility Appellant could receive one final check, potentially with a “\$0.00 value,” the finance unit “confirmed that basically [Appellant] has been paid out through his ETS.” R. at 128.

Notwithstanding these facts, the government maintained that Appellant had not been “officially discharged” and thus was still subject to UCMJ jurisdiction. R. at 103. Defense counsel noted that the issue of personal jurisdiction was non-waivable, but did not raise a specific motion challenging jurisdiction. R. at 120-21. Defense counsel did, however, request time to gather more facts if the military judge wanted to make a formal ruling on jurisdiction. R. at 128-29.

The military judge ultimately issued a written order containing his findings on the jurisdictional issue. *See* Ruling. In his order, the military judge relied on factors discussed in *United States v. King*, 27 M.J. 327, 329 (CMA 1989), in ruling that the Air Force maintained jurisdiction over Appellant. Ruling at 4-5. Specifically, the military judge referred to the *King* holding that three things must occur for a person to be discharged from the military: (1) “one must receive a DD Form 214;” (2) “there must be a final accounting of pay made;” and (3) the member “must undergo the ‘clearing’ process required under appropriate service regulations to separate him from military service.” Ruling at 3 (citing *King*, 27 M.J. at 329).

Although he stated the *King* factors served only as guidance and noted that the “totality of circumstances” should be considered, *see United States v. Christensen*, 78 M.J. 1 (C.A.A.F. 2018), the military judge repeatedly referred to the *King* factors as “requirements.” Ruling at 3-4. The military judge found that the first factor was established because Appellant had indeed received a

complete DD Form 214, but in regard to the other two *King* factors, “the Court does not consider those *requirements* fulfilled.” Ruling at 4 (emphasis added). Despite finding that Appellant received a paycheck through his expiration of term of service on 28 March 2024 and that he was currently in a “no pay status,” the military judge found that Appellant never received a final accounting of pay. Ruling at 4. The military judge also found that Appellant had not completed out-processing with his unit, although the Kunsan Air Base medical and dental units showed Appellant in an out-processing or separated status in their systems. Ruling at 4. For these reasons, the military judge found that the totality of the circumstances showed the Air Force had jurisdiction over Appellant on 10 and 11 April 2024. Ruling at 5.

B. Standard of Review

This Court reviews “issues of personal jurisdiction de novo.” *Christensen*, 78 M.J. at 4. A reviewing court accepts “the military judge’s findings of historical facts unless they are clearly erroneous or unsupported in the record.” *Id.* (quoting *United States v. Melanson*, 53 M.J. 1, 2 (C.A.A.F. 2000)).

C. Law and Analysis

The Air Force lost personal jurisdiction over Appellant when his term of service expired on 28 March 2024 and he became a civilian. It is undisputed that no hold was placed on Appellant, as required by Air Force regulation when retention is sought beyond a member’s date of separation for action by a court-martial. And a DD Form 214 was issued to and received by Appellant. Thus, consistent with superior court precedent and Air Force regulation, because he was separated from the Air Force, there was no personal jurisdiction to try him before a court-martial on 10-11 April 2024. It was unconstitutional to subject Appellant to trial by court-martial once he became a civilian. *United States ex rel. Toth v. Quarles*, 350 U.S. 11 (1955).

“A lawful discharge from military service normally terminates the constitutional and statutory power of a court-martial to try such a person, even for offenses allegedly committed prior to the discharge.” *Smith v. Vanderbush*, 47 M.J. 56, 59 (C.A.A.F. 1997)(quoting *United States v. Reid*, 46 M.J. 236, 238 (C.A.A.F. 1997)). Court of Appeals for the Armed Forces (CAAF) caselaw concerning the effect of a discharge on personal jurisdiction generally falls into two categories: cases in which a discharge is a result of the expiration of a term of sentence and cases involving early discharges.

In the former category, the analysis turns on whether a valid discharge was issued prior to the adjudication of findings and sentence in a court-martial and whether the service exercised its authority to retain the member. *See Vanderbush*, 47 M.J. at 58-59. If a valid discharge based on an expired term of sentence occurs and no administrative hold has been placed, the CAAF has held that court-martial jurisdiction over an accused, even after it was initiated, is terminated. *Id.*

For the latter category, because the UCMJ does not define the time when a discharge occurs, the CAAF and its predecessor Court developed guidance through the *King* factors, based on a civil personnel statute, to determine when a discharge is sufficiently complete to terminate personal jurisdiction. *See United States v. Nettles*, 74 M.J. 289, 290 (C.A.A.F. 2015)(citing *United States v. Hart*, 66 M.J. 273, 275 (C.A.A.F. 2008)); *see King*, 27 M.J. at 329 (holding “that three elements [must] be satisfied to accomplish an early discharge”: (1) “there must be a delivery of a valid discharge certificate[;]” (2) “there must be a final accounting of pay made[;]” and (3) the member “must undergo the ‘clearing’ process required under appropriate service regulations to separate him from military service.”). Superior courts have applied this guidance in the context of an *early* discharge—such as a discharge after being passed over for promotion, *see Nettles*, 74 M.J. at 290; for drug use, *see United States v. Harmon*, 63 M.J. 98, 99 (C.A.A.F. 2006); for being

deemed physically unfit for military service per service regulations, *see Hart*, 66 M.J. at 274; or where a service member requested early discharge for purposes of early reenlistment, *see King*, 27 M.J. at 328.

Appellant's case falls into the first category. His separation was the result of the expiration of his term of service and did not involve unsettled facts based on an early discharge. Because Appellant's term of service had expired, without any hold being placed, his case falls under CAAF precedent holding that personal jurisdiction was terminated. *See Vanderbush*, 47 M.J. at 58-59. Further, because his case does not involve an early discharge, a full analysis of the *King* factors is neither necessary nor required to reach this result, particularly given that the CAAF now has made clear that the *King* factors, even in early discharge cases, are guidance, rather than binding. *See Christensen*, 78 M.J. at 4. Therefore, the findings and sentence should be set aside and Appellant's case dismissed for lack of personal jurisdiction.

- 1. CAAF precedent establishes that the government lost personal jurisdiction over Appellant to try him by court-martial when his term of service expired prior to trial, he was discharged, and no administrative hold was placed on him.**

The Air Force lost personal jurisdiction over Appellant when his term of service expired on 28 March 2024. On that date, Appellant was separated from the Air Force because the government failed to place an administrative hold on him.

"It is black letter law that *in personam* jurisdiction over a military person is lost upon his discharge from the service, absent some saving circumstance or statutory authorization." *Christensen*, 78 M.J. at 4 (citations omitted). "Members are entitled to separation at their ETS [expiration of term of service] unless there is a specific authority for their retention." Department of Air Force Instruction (DAFI) 36-3211, *Military Separations*, ¶ 4.1 (24 June 2022). Generally,

members are separated on the date of their expiration of term of service by administrative action. DAFI 36-3211, ¶ 4.1.1.

A servicemember, however, does not have an “an unconditional right” to be discharged upon the expiration of their term of service. *Vanderbush*, 47 M.J. at 57. “The authority to retain servicemembers past their period of obligated service for purposes of trial by court-martial is a longstanding feature of military law.” *Id.* at 57-58. For example, court-martial jurisdiction “attaches over a person when action with a view to trial of that person is taken.” Rules for Court-Martial (R.C.M.) 202(c)(1).

But that jurisdiction can be severed and lost. Relevant here, “a valid discharge can operate as a termination of court-martial *in personam* jurisdiction.” *Harmon*, 63 M.J. at 101 (citing *Vanderbush*, 47 M.J. at 58). That is so because “the authority to retain an individual on active duty is discretionary and not self-executing.” *Vanderbush*, 47 M.J. at 58; *see* R.C.M. 202(c)(1), Discussion (“If jurisdiction has attached before the effective terminal date of self-executing orders, the person *may* be held for trial by court-martial beyond the effective terminal date.”) (Emphasis added.) Air Force regulations provide authority for retention of a member beyond the expiration of term of service for action by court-martial. DAFI 36-3211, ¶ 4.4. Critically, however, if a member has a specified date of separation, a hold memorandum is required. DAFI 36-211, ¶ 4.4.2. Thus, although the Air Force has authority to retain a member on active duty for court-martial beyond their term of service, a failure to exercise that authority terminates court-martial jurisdiction if “an otherwise valid administrative discharge [is] issued prior to adjudication of findings and sentence.” *Vanderbush*, 47 M.J. at 59.

Appellant’s case is nearly identical to *Vanderbush*. After charges were preferred in that case against the appellant, personnel officials initiated administrative procedures to separate the

appellant based on the expiration of his term of service. *Id.* at 57. A discharge certificate was approved and delivered to appellant prior to the date of his trial. *Id.* The Army took no action to retain or hold him. *Id.*

On appeal, the CAAF noted that Army officials had authority to retain appellant through his trial, but “they did not do so.” *Id.* at 58. Declining to adopt the concept of “continuing jurisdiction,” the CAAF rejected the government’s argument that the issuance of a valid administrative discharge in that case did not divest the court-martial of jurisdiction. *Id.* at 59. Ultimately, the CAAF affirmed the lower court’s holding that court-martial jurisdiction over the appellant terminated after the issuance of a valid administrative discharge prior to the adjudication of findings and sentence. *Id.* at 59-61.

Vanderbush controls here and confirms that the Air Force had no personal jurisdiction over Appellant at trial. Like in *Vanderbush*, it is undisputed that Appellant’s term of service expired prior to his trial on 28 March 2024. Ruling at 2. Just as in *Vanderbush*, although charges were preferred prior to the expiration of his term of service, Appellant was separated by a valid administrative action, and his DD Form 214 was issued and received “prior to adjudication of findings and sentence.” *Vanderbush*, 47 M.J. at 59. App. Ex. IV.⁴ Thus, he was no longer “awaiting discharge” after his expiration of term of service. *See* Art. 2(a)(1), UCMJ. He was, in fact, separated, there was no specific authority for his retention, and thus, he was not subject to court-martial jurisdiction under the UCMJ.

In fact, the lack of personal jurisdiction is even more pronounced in Appellant’s case. In *Vanderbush*, although the appellant was arraigned prior to his discharge for the expiration of his

⁴ While the email that delivered the DD Form 214 to Appellant was included in the record, *see* App. Ex. IV, the DD Form 214 itself does not appear in the record. Thus, contemporaneous with the filing of this brief, Appellant filed a motion to attach the DD Form 214 to the record of trial.

term of service, the CAAF still concluded that jurisdiction was severed. 47 M.J. at 57-58, 61. But in Appellant's case, arraignment did not occur until after both the expiration of his term of service and receipt of his DD Form 214. *See* App. Ex. IV; R. 12.

Finally, just as in *Vanderbush*, the government failed to take the necessary steps to effectuate its jurisdiction over Appellant. Specifically, the government failed to follow departmental regulations to obtain an administrative hold for a court-martial. It is undisputed that the government never placed an administrative hold on Appellant. Ruling at 2. Just as in *Vanderbush*, while the government had authority to follow a straightforward process to retain the Appellant beyond the expiration of his term of service for purposes of trial, "they did not do so." 47 M.J. at 58.

Therefore, in the absence of an administrative hold, once his term of service expired, Appellant was separated from the Air Force on 28 March 2024 by a valid discharge, prior to his 10-11 April 2024 court-martial. Under *Vanderbush*, these undisputed facts compel the conclusion that the Air Force had no personal jurisdiction over Appellant.

2. This Court does not need to apply the *King* factors to determine the Air Force lost jurisdiction over the Appellant, nor is it required by CAAF precedent to do so.

In conducting its de novo review, this Court should not apply the *King* factors to assess whether the Air Force had personal jurisdiction over Appellant at the time of trial. Appellant's case is distinct from cases where superior courts have held that the *King* factors should be considered.

Appellant's case, like *Vanderbush*, involves the expiration of a term of service, as opposed to an early discharge. In *Vanderbush*, the CAAF did not mention, much less apply, the *King* factors in holding that the appellant's court-martial jurisdiction terminated. Rather, the court's analysis

focused on the bright-line facts that a valid discharge issued upon the expiration of a term of service and the absence of an administrative action to retain the appellant. 47 M.J. at 58-60.

This Court should follow *Vanderbush*. Indeed, it does not appear that the CAAF has specifically held that the *King* factors should be applied in a case involving a valid discharge order issued upon the expiration of a term of service. This reason, coupled with the factual alignment with *Vanderbush*, makes it neither necessary nor appropriate to apply the *King* factors in this case. Following *Vanderbush*, this Court need only look to the bright-line, undisputed facts that Appellant's term of service expired, a valid DD Form 214 was issued, and no administrative hold was placed on him prior to his court-martial date to confirm the lack of personal jurisdiction.

In contrast, the CAAF has applied the *King* factors in *early* discharge cases. See *Christensen*, 78 M.J. at 2 (considering the *King* factors where command initiated a member's administrative separation from the Army for his failure to complete an alcohol abuse rehabilitation program); *Nettles*, 74 M.J. at 290 (applying the *King* factors where member was discharged from reserves after he had twice been passed over for promotion); *Hart*, 66 M.J. at 274 (applying the *King* factors where member was administratively separated on disability discharge for being physically unfit for military service). The adoption of the *King* factors centered on the issues created by an early discharge, specifically, the determination of whether an early discharge (i.e. a discharge *before* the expiration of a term of service) was valid and complete to sufficiently deprive the armed forces of personal jurisdiction over a member for UCMJ purposes. To address this issue, *King* looked to civil personnel statutes for guidance and found that those statutes generally required "that three elements be satisfied to accomplish *an early discharge*": (1) "there must be a delivery of a valid discharge certificate[;]" (2) "there must be a final accounting of pay made[;]" and (3) the member "must undergo the 'clearing' process required under appropriate service regulations

to separate him from military service.” 27 M.J. at 329 (emphasis added), citing 10 USC § 1168(a), 1169. But because Appellant’s case involves the expiration of a term of service, as opposed to an early discharge, CAAF precedent does not require the application of the *King* factors here.

Despite the CAAF’s line of demarcation concerning in what situations the *King* factors should be applied, this Court applied a modified version of the *King* factors in *Webb v. United States*, 67 M.J. 765 (A.F. Ct. Crim. App. 2009). In *Webb*, this Court rejected the argument that all three *King* factors must be applied to determine whether a member has been validly discharged from the Air Force based upon the expiration of a term of service. 67 M.J. at 771 (noting that the *King* factors have only been applied in cases involving an early discharge “*before* [a service member’s] normal ETS”)(emphasis in original). Nevertheless, this Court determined that the first two *King* factors should be analyzed in cases involving an expiration of term of service. *Id.* (“for ETS cases, we look only to whether the mandate of 10 U.S.C. § 1168(a) has been met, i.e., whether the petitioner received a valid certificate of discharge and a final accounting of pay.”).

But *Webb* should not alter this Court’s course from the path laid by *Vanderbush* noted above. Nor does it impact the ultimate conclusion that the Air Force severed jurisdiction when Appellant was validly discharged upon the expiration of his term of service. *Webb* is wholly distinguishable from Appellant’s case. While both cases involved a discharge issued as a result of an expiration of term of service, their similarities end there. In *Webb*, this Court found that the DD Form 214 was not validly issued and that an administrative hold memorandum was issued. 67 M.J. at 772. Because of these key facts, the Court held the discharge was without legal effect and that the jurisdiction over the appellant was not severed. *Id.* (noting “that the facts of this case are distinguishable from *Vanderbush*.”).

But Appellant’s case aligns with *Vanderbush*, as the critical facts found in *Webb* are not present in his case. It is undisputed that a DD Form 214 was issued to and received by the Appellant. Ruling at 2; App. Ex. IV. The government did not present any evidence that Appellant’s DD Form 214 was not validly issued. Moreover, unlike *Webb*, it is undisputed that Appellant “was never placed on admin hold.” Ruling at 2. Indeed, the key facts in *Vanderbush*—the lack of evidence in the record challenging the validity of the discharge certificate and the lack of an administrative hold—that *Webb* held were not present in that case to distinguish it from *Vanderbush* are present in Appellant’s case. *See Webb*, 67 M.J. at 772. Thus, the reasons this Court found jurisdiction in *Webb* simply are not present here.

Finally, to the extent that *Webb* could be read to *require* the application of the first two *King* factors in a case involving a discharge upon expiration of a term of service, that case was wrongly decided on that point, conflicts with CAAF precedent, and should be overruled.⁵ *Webb* cited no CAAF authority supporting its conclusion that any of the *King* factors were required to be applied in cases involving an expiration of term of service. 67 M.J. at 771. As the *Webb* court recognized, *King* itself was limited to early discharge cases. *Id.* (citing *King*, 27 M.J. at 329). Indeed, *Webb* is more than just factually distinguishable from *Vanderbush*. 67 M.J. at 772. *Webb*

⁵ To be clear, Appellant’s ability to obtain relief for lack of personal jurisdiction is not dependent on overruling *Webb*. There are multiple paths for this Court to take to hold that the court-martial was without jurisdiction to try Appellant. The clearest route is what Appellant has shown above that, consistent with *Vanderbush*, his case falls outside of the facts in *Webb*. Or, as noted below, even if this Court applies *Webb* here and considers two of the *King* factors in this case, the totality of the circumstances still demonstrates the lack of personal jurisdiction in Appellant’s case. Moreover, Appellant recognizes that *Webb* was a published decision that would need to be overruled by this Court *en banc*. *See* Rule 27(d), Joint Rules of Appellate Procedure for Courts of Criminal Appeals (“Although only the Court *en banc* may overrule a binding precedent, a party may argue, in its brief and oral argument, to overrule a binding precedent without petitioning for hearing *en banc*.”). Nevertheless, should this Court disagree with Appellant and find *Webb*’s requirement to apply *King* factors still controls, and ultimately weighs those factors against Appellant, *Webb* should be overruled.

conflicts with *Vanderbush*'s approach on addressing expiration of term of service cases, where the CAAF confirmed the lack of jurisdiction in that case without addressing the *King* factors at all.

Moreover, *Webb*'s insertion of the *King* factors into the analysis of whether jurisdiction exists in an expiration of term of service case was unnecessary. As this Court recognized in *Webb*, that case was factually distinguishable from *Vanderbush*. 67 M.J. at 772. *Webb* could have, and should have, reached the same result by holding there was jurisdiction in its case because it differed factually from *Vanderbush*, without requiring the unnecessary application of the *King* factors.

Further, to the extent this Court reads *Webb* to require the application of the first two *King* factors in this case, *Webb* should be revisited because it would conflict with *Christensen*. The CAAF has made clear that the *King* factors “derived from 10 U.S.C. §§ 1168 and 1169 serve as *guidance*—not as *prerequisites*—when it comes to determining whether a discharge has been effectuated for jurisdictional purposes.” *Christensen*, 78 M.J. at 5 (emphasis in original). This development in CAAF jurisprudence, coupled with the inherent issues in *Webb* noted above, confirms that *Webb*'s pronouncement that a modified version of the *King* factors should be applied in considering the question of personal jurisdiction in expiration of term of service cases should be revisited and overruled.⁶

⁶ This conclusion is supported by the fact that the line of precedent applying the *King* factors generally has been the subject of considerable scrutiny and disagreement at the CAAF even in non-ETS cases. In *Hart*, the dissent disagreed with the majority's reliance on the “final accounting of pay” criterion in holding that the military retained jurisdiction over a member, despite the fact that the appellant had received a DD Form 214. 66 M.J. at 279 (Effron, C.J., dissenting). The dissent found the majority's application of the *King* factors flawed because it disregarded the certainty of the effective date of separation on a discharge document in favor of criteria outside of the member's control, such as “if personnel in the finance office have overlooked or failed to make sufficient progress in calculating a departing servicemember's pay at the time of separation.” *Id.* The dissent found that such an approach “would eliminate the ability of servicemembers and the government to rely on the certainty provided by the effective date set forth in a discharge document.” *Id.* Similarly, in *Christensen*, the concurring opinion noted that “[a]lthough we have cited and applied this three-part test for many years, recent cases reveal significant dissatisfaction

3. Even if some of the *King* factors are considered in this case, the totality of circumstances establish that Appellant was not subject to court-martial jurisdiction at the time of his trial.

Alternatively, even if this Court were to consider and apply the *King* factors to this case based on *Webb*, the totality of the circumstances confirms the Air Force did not have personal jurisdiction over Appellant at the time of trial. The CAAF has made clear that the *King* factors serve only as guidance. *Christensen*, 78 M.J. at 5. For this reason, even if one or more of the *King* factors have not been fully met, that is not dispositive of personal jurisdiction; the military judge still “must consider the totality of the circumstances in making a jurisdictional determination.” *Id.* at 5 n.6. Moreover, the *King* factors, and the statutes upon which the factors were based “are not binding when we find that they go against reason or policy.” *Nettles*, 74 M.J. at 291.

Accordingly, if this Court applies *Webb* to this case, it must be applied in conjunction with this controlling CAAF authority. Combining that precedent produces this result: this Court may consider the first two *King* factors—whether a discharge certificate has been delivered and whether a final pay or a substantial part of that pay has been delivered—as guidance in determining whether Appellant’s discharge for expiration of term of service deprived the Air Force of jurisdiction under the totality of the circumstances. *See Christensen*, 78 M.J. at 5; *Webb*, 67 M.J. at 771. Here, the totality of the circumstances establish that the Air Force did not have personal jurisdiction over Appellant at the time of his court-martial.

First, Appellant’s term of service expired on 28 March 2024, prior to his trial on 10-11 April 2024.⁷ Generally, members are separated on the date their term of service expires. DAFI 36-

with some of its results.” 78 M.J. at 6 (Maggs, J., concurring). The concurrence stated that “we should reconsider our approach for determining when a servicemember has been discharged for the purposes of terminating court-martial jurisdiction.” *Id.*

⁷ Notably, the military judge found that the first *King* factor—the delivery of a valid discharge certificate—was established. Ruling at 4.

3211, ¶ 4.1.1. The undisputed fact that Appellant’s term of service had expired is the most important factor in this analysis because it provides the clearest guidepost for the “overarching interest” implicated by the law of personal jurisdiction: “to know with certainty and finality what the person’s military status is and when that status changes.” *Nettles*, 74 M.J. at 291. Moreover, this conclusion is buttressed by the fact that it is consistent with the regulations the Air Force created that provide that members are separated at the expiration of their term of service—unless the Air Force specifically applies procedures to hold the member for court-martial purposes, which the government failed to do here. *See* DAFI 36-3211, ¶¶ 4.1., 4.4.

In *Nettles*, the CAAF refused to rigidly apply the *King* factors and instead held that a reservist member’s discharge was effective on the date ordered (and there was no active administrative hold), despite the fact that this technically did not meet the first *King* factor because the discharge was not “delivered” to the member. *Id.* at 292-93. Similarly here, just as the CAAF decided not to apply the *King* factors to a reservist and instead applied the “statute that actually discharged” the reservist, *id.* at 291-92, this Court should look primarily to the undisputed fact that Appellant’s term of service expired to find that the Air Force did not have personal jurisdiction over Appellant.

Second, the government failed to place an administrative hold on Appellant. Departmental regulations provided a mechanism for the Air Force to issue a hold memorandum on Appellant to prevent his separation, *see* DAFI 36-3211, ¶ 4.4., but it failed to do so. The government’s negligence in failing to properly and timely initiate actions to retain a servicemember have weighed significantly in the CAAF’s analysis that the military did not have personal jurisdiction over a member. *See Christensen*, 78 M.J. at 5 (finding that the government’s failure to act in a timely manner to revoke a discharge supported the conclusion that the military lost jurisdiction over the

accused); *Nettles*, 74 M.J. at 292 (finding that the fact that “Appellant was never placed on administrative hold” supported a finding of lost jurisdiction). Likewise, the undisputed fact that the Air Force failed to initiate an administrative hold cements the lack of personal jurisdiction in Appellant’s case. Just as in *Nettles*, in the absence of an administrative hold, Appellant was separated upon the expiration of his term of service on 28 March 2024 and no personal jurisdiction existed at the time of his 10-11 April 2024 trial.

Third, the record demonstrates that the first two *King* factors are established in this case. On the first factor, a valid DD Form 214 was delivered to Appellant. As noted above, it is undisputed that Appellant’s term of service expired on 28 March 2024 and he received an email with the DD Form 214 with the date of separation of 28 March 2024. Ruling at 2. Based on these facts, the military judge found that this factor was established. Ruling at 4. In regard to the second *King* factor, the record also establishes this factor because the Appellant received, at a minimum, a substantial part of his final pay. In regard to the “final accounting of pay,” this factor is based on Section 1168(a), which in turn states that a member is discharged or released from activity duty when “his final pay or a substantial part of that pay, are ready for delivery to him.” *King*, 27 M.J. at 329 (emphasis added). The record here demonstrates that a substantial part of Appellant’s final pay was delivered to him. It is undisputed that Appellant received a paycheck covering his pay period up to his expiration of his term of service on 28 March 2024. Ruling at 2. It is also undisputed that he was coded in a no-pay status. *Id.*⁸ Although the finance office still had to review Appellant’s account to determine if he was owed a final payment, there was a possibility that

⁸ The military judge found that “the accused was still owed pay from the time period of 28 March 2024 until 11 April 2024, at the conclusion of the accused’s court-martial.” Ruling at 4. This finding is clearly erroneous, as there is nothing in the record supporting this supposition that Appellant was owed pay for this time period. In fact, the record contradicts this finding, as it is undisputed that Appellant was in a no-pay status and his term of service had expired. Ruling at 2.

Appellant would receive a perfunctory paycheck of \$0.00. *See* R. at 128; Ruling at 2. Thus, the record demonstrates that, at a minimum, Appellant received a substantial part of his final pay.

Finally, under the totality of circumstances, it would go against reason and policy for this Court to determine that the Air Force retained personal jurisdiction over Appellant. Controlling CAAF precedent holds that the *King* factors “are not binding when we find that they go against reason or policy.” *Nettles*, 74 M.J. at 291. CAAF precedent provides several bases to support the conclusion that a determination that the Air Force had personal jurisdiction over Appellant runs contrary to reason and policy.

“The overarching interest implicated by the law of the personal jurisdiction” is “certainty and finality.” *Id.* This policy is best fulfilled by relying on bright line, clear-cut facts in this case, such as the expiration of Appellant’s term of service and the lack of an administrative hold, to determine he was separated. Such facts are “clear guideposts for prosecutors and commanders when taking actions with a view towards litigation” and provide certainty and finality to the servicemember “so that he can guide his conduct with awareness of the potential (or not) for criminal liability under the UCMJ.” *Id.* at 291-92. And such an approach would be consistent with departmental policy which creates a general presumption that a member is separated at the expiration of the term of service. DAFI 36-3211, ¶ 4.1.

In contrast, even if this Court were to determine that the “final accounting of pay” *King* factor was not completed (the only factor relevant here that the military judge found was not completed), a decision finding personal jurisdiction in this case based on that fact would frustrate the goals of certainty and finality, and thus go against reason and policy. For one thing, an overreliance on that one factor would conflict with reason and policy given the weighty facts in this case where Appellant’s term of service expired without the Air Force issuing an administrative

hold. Moreover, a completion of a final accounting of pay depends on arbitrary actions outside of Appellant's control. For instance, similar to the issues with the delays in delivery of a discharge certificate in *Nettles*, the final pay process relies on "the service's administrative apparatus to process" these actions. *Nettles*, 74 M.J. at 292. But Appellant's status "ought not hinge on their occurrence or nonoccurrence." *Id.* Otherwise, an arbitrary situation would be created where the finality of an expiration of term of sentence, "must be disregarded if personnel in the finance office have overlooked or failed to make sufficient progress in calculating a departing servicemember's pay at the time of separation." *Hart*, 66 M.J. at 279 (Effron, C.J., dissenting).

Given the high volume of actions involving pay that systems such as the Defense Finance and Accounting Service must accomplish, "there is a significant potential for delays and mistakes." *Id.* (Effron, C.J., dissenting). Because of these arbitrary risks, an overreliance on this *King* factor "would eliminate the ability of servicemembers and the government to rely on the certainty provided" by the effective date of the expiration of term of service. *Id.* (Effron, C.J., dissenting). If the government failed to provide final pay to a member whose expiration of term of service occurred, "the error may be remedied by completing the required paperwork and making the requisite payment to the servicemember." *Id.* (Effron, C.J., dissenting). It does not require the absurd result that the member is still subject to court-martial jurisdiction.

Further, an overreliance on this *King* factor would frustrate reason and policy in this case because it runs counter to the purposes of Section 1168. Section 1168(a), upon which the *King* factors were based, "is a personnel management statute designed to protect servicemembers and their families from the adverse financial consequences of premature separation." *Hart*, 66 M.J. at 278 (Effron, C.J., dissenting). "The pertinent legislation originated in World War II as part of the Servicemen's Readjustment Act of 1944" and "ensured the efficient administration of disability

claims and the timely discharge of servicemembers.” *Id.* (Effron, C.J., dissenting). Using a statute designed to *protect* servicemembers as a hook to keep a veteran like Appellant, whose term of service expired, subject to UCMJ jurisdiction would turn the statute on its head. Such a result would particularly run counter to reason and policy where, as in this case, the government dropped the ball by failing to take steps that were available to it to retain the member with an administrative hold.

WHEREFORE, Appellant respectfully requests that this Honorable Court set aside the findings of guilty to the charge and specification and the sentence for lack of personal jurisdiction.

II. Appellant is entitled to sentence relief because of the 249-day delay between sentencing and docketing with this Court.

A. Additional Facts

Appellant was sentenced on 11 April 2024. R. at 154, 190. The court reporter started transcribing that case more than a month later on 13 May 2024. Court Reporter’s Chronology. More than two months later, on 29 July 2024, the court reporter began a series of submissions of the transcript to trial counsel and defense counsel for review. Court Reporter’s Chronology at iv. On 9 August 2024, nearly four months after sentencing, the court reporter certified the transcript and sent all documents to the case paralegal. *Id.* at v. Then Appellant’s case was not docketed with this Court until 16 December 2024, 249 days after sentence.

B. Standard of Review

Whether post-trial processing was properly completed is reviewed de novo. *United States v. Zegarrundo*, 77 M.J. 612, 613–14 (A.F. Ct. Crim. App. 2018) (citing *United States v. Kho*, 54 M.J. 63, 65 (C.A.A.F. 2000)). A court of criminal appeals necessarily considers de novo whether to grant relief for error and excessive delay in post-trial processing under Article 66(d)(2), UCMJ. 10 U.S.C. § 866(d)(2).

C. Law and Analysis

Appellant should receive sentence relief from this Court based on the Air Force's systemic problem of unreasonable delay in providing records of trial to this Court for docketing. 10 U.S.C. § 866(d)(2); *see United States v. Gay*, 74 M.J. 736 (A.F. Ct. Crim. App. 2015), *aff'd*, 75 M.J. 264 (C.A.A.F. 2016).

This Court adopted a 150-day standard from the date of sentencing to the docketing of the case with this Court. *See United States v. Livak*, 80 M.J. 631, 633 (A.F. Ct. Crim. App. 2020). As this Court has observed, the 150-day standard “is not, by any means, a particularly onerous processing goal.” *United States v. Covitz*, No. ACM 40193 (reh), 2025 CCA LEXIS 105, at *38 (A.F. Ct. Crim. App. Mar. 19, 2025) (quoting *Gay*, 74 M.J. at 744). Yet the government failed to meet this standard in this case with the 249-day delay between the 11 April 2024 date of sentence and the 16 December 2024 docketing with this Court. More troubling, the government continues to fail to meet this standard across the Air Force.

This Court has the statutory power to “provide appropriate relief if the accused demonstrates . . . excessive delay in the processing of the court-martial after the judgment was entered into the record.” Article 66(d)(2), UCMJ, 10 U.S.C. § 866(d)(2). Appellant does not allege that the delay thus far has violated his constitutional due process right to timely appeal. Rather, Appellant seeks relief under this Court's express statutory authority to grant “appropriate relief” for excessive post-trial delay.

This Court has identified non-exhaustive factors it considers when deciding whether relief for post-trial delay is appropriate. *Gay*, 74 M.J. at 744. Two of the factors ask, “Is there any evidence of institutional neglect concerning timely post-trial processing, either across the service or at a particular installation?” and “Given the passage of time, can this court provide meaningful

relief in this particular situation?” *United States v. Valentin-Andino*, No. ACM 40185 (f rev), 2024 CCA LEXIS 223, at *14–15 (A.F. Ct. Crim. App. June 7, 2024) (quoting *Gay*, 74 M.J. at 744), *aff’d on other grounds*, 85 M.J. 361 (C.A.A.F. 2025). Here, those factors favor sentencing relief in Appellant’s case to address the presumptively unreasonable delay.

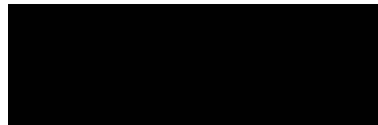
There is compelling evidence of institutional neglect across the service in regard to untimely docketing. *See Valentin-Andino*, 2024 CCA LEXIS 223, at *14. In the last sixteen months before this brief was submitted, this Court has decided at least twenty appeal cases that were not docketed within the *Livak* 150-day standard.⁹ This case’s untimely docketing fits within the

⁹ *United States v. Floyd*, No. ACM S32784, 2025 CCA LEXIS 31 (A.F. Ct. Crim. App. Feb. 3, 2025) (155 days from sentencing to docketing), *petition denied*, 86 M.J. 117 (C.A.A.F. 2025), *cert. denied*, 146 S.Ct. 188 (2025); *United States v. Covitz*, No. ACM 40193 (reh), 2025 CCA LEXIS 105 (A.F. Ct. Crim. App. Mar. 19, 2025) (155 days from sentencing to docketing), *petition denied*, 86 M.J. 242 (C.A.A.F. 2025); *United States v. Jenkins*, No. ACM S32765, 2025 CCA LEXIS 148 (A.F. Ct. Crim. App. Apr. 7, 2025) (154 days from sentencing to docketing), *petition denied*, 86 M.J. 277 (C.A.A.F. 2025); *United States v. Johnson*, No. ACM 40537, 2025 CCA LEXIS 193 (A.F. Ct. Crim. App. May 2, 2025) (196 days from sentencing to docketing), *petition granted*, 86 M.J. 286 (C.A.A.F. 2025); *United States v. Hagen*, No. ACM 40561, 2025 CCA LEXIS 234 (A.F. Ct. Crim. App. May 28, 2025) (183 days from sentencing to docketing), *petition denied*, __ M.J. __, No. 25-0224/AF, 2025 CAAF LEXIS 841 (C.A.A.F. Oct. 6, 2025), *cert. denied sub nom.*, *Baumgartner v. United States*, 223 L. Ed. 2d 516 (2026); *United States v. Ryder*, No. ACM 40605, 2025 CCA LEXIS 283 (A.F. Ct. Crim. App. June 25, 2025) (369 days from sentencing to docketing); *United States v. Blair*, No. ACM S32778, 2025 CCA LEXIS 341 (A.F. Ct. Crim. App. July 28, 2025) (175 days from sentencing to docketing), *petition denied*, __ M.J. __, No. 25-0271/AF, 2025 CAAF LEXIS 899 (C.A.A.F. Oct. 27, 2025); *United States v. Tompkins*, No. ACM 40619, 2025 CCA LEXIS 359 (A.F. Ct. Crim. App. Aug. 1, 2025) (per curiam) (155 days from sentencing to docketing), *petition denied*, __ M.J. __, No. 25-0278/AF, 2025 CAAF LEXIS 878 (C.A.A.F. Oct. 21, 2025); *United States v. Slayton*, No. ACM 40583, 2025 CCA LEXIS 427 (A.F. Ct. Crim. App. Sep. 8, 2025) (203 days from sentencing to docketing), *recon. and recon. en banc denied* (A.F. Ct. Crim. App. Oct. 30, 2025), *certificate for review filed*, __ M.J. __, No. 26-0077/AF, 2025 CAAF LEXIS 1056 (C.A.A.F. Dec. 29, 2025); *United States v. Roberts*, No. ACM 40608, 2025 CCA LEXIS 476 (A.F. Ct. Crim. App. Sep. 30, 2025) (205 days from sentencing to docketing), *petition denied*, __ M.J. __, No. 26-0044/AF, 2026 CAAF LEXIS 78 (C.A.A.F. Jan. 23, 2026); *United States v. Myslow*, No. ACM 40668, 2025 CCA LEXIS 473 (A.F. Ct. Crim. App. Oct. 10, 2025) (163 days from sentencing to docketing), *petition denied* __ M.J. __, No. 26-0050/AF, 2026 CAAF LEXIS 21 (C.A.A.F. Jan. 6, 2026); *United States v. Keilberg*, No. ACM 40601, 2025 CCA LEXIS 481 (A.F. Ct. Crim. App. Oct. 22, 2025) (185 days from sentencing to docketing), *petition denied*, __ M.J. __, No. 26-0065/AF, 2026 CAAF LEXIS 144 (C.A.A.F. Feb.

broad pattern of institutional neglect. At a certain point, which has now been surpassed, an appellant should get relief—in part—to motivate the government to do its job correctly in preparing and docketing a correct record of trial within 150 days of announcement of sentence. Further, this Court can provide meaningful relief to Appellant under Article 66, UCMJ, by, at a minimum, disapproving of the bad-conduct discharge.

WHEREFORE, Appellant respectfully requests this Court grant sentence relief by, at a minimum, disapproving of the bad-conduct discharge.

Respectfully submitted,



THOMAS R. GOVAN, JR., Maj, USAF
Appellate Defense Counsel



11, 2026); *United States v. Martinez*, No. ACM 39903(reh)(f rev), 2025 CCA LEXIS 494 (A.F. Ct. Crim. App. Oct. 31, 2025), *petition denied*, __ M.J. __, No. 26-0073/AF, 2026 CAAF LEXIS 285 (C.A.A.F. Mar. 25, 2026); *United States v. Howard*, No. ACM 40478 (f rev), 2025 CCA LEXIS 537 (A.F. Ct. Crim. App. Nov. 21, 2025) (223 days from sentencing to docketing of incomplete record of trial), *petition denied*, __ M.J. __, No. 26-0101/AF, 2026 CAAF LEXIS 366 (C.A.A.F. Apr. 16, 2026); *United States v. Cabrie*, No. ACM 40615, 2025 CCA LEXIS 552, at *14 (A.F. Ct. Crim. App. Dec. 3, 2025) (176 days from sentencing to docketing); *United States v. Thompson*, No. ACM S32816, 2025 CCA LEXIS 583, at *1 n.1 (A.F. Ct. Crim. App. Dec. 23, 2025) (per curiam) (192 days from sentencing to docketing); *United States v. Kindred*, No. ACM 40607 (f rev), 2026 CCA LEXIS 87, at *72 (A.F. Ct. Crim. App. Feb. 24, 2026) (188 days from sentencing to docketing); *United States v. Castillo*, No. ACM 40705, 2026 CCA LEXIS 118, at *20-21 (A.F. Ct. Crim. App. Mar. 11, 2026) (622 days from sentencing to docketing); *United States v. Tyson*, No. ACM 40617, 2026 CCA LEXIS 178, at *40 (A.F. Ct. Crim. App. Apr. 13, 2026) (172 days from sentencing to docketing); *United States v. Doolin*, No. ACM 40745, 2026 CCA LEXIS 188, at *14 (244 days from sentencing to docketing).

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 Government Trial and Appellate Operations Division on 11 May 2026.

Respectfully submitted,

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THOMAS R. GOVAN, JR., Maj, USAF
Appellate Defense Counsel

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

UNITED STATES	)	No. ACM S32804
<i>Appellee</i>	)	
	)	
v.	)	
	)	ORDER
Jacob A. GRANT	)	
Airman Basic (E-1)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	Panel 1

On 11 May 2026, Appellant submitted a motion to attach the following document to the record: Appellant’s DD Form 214, dated 9 April 2024. The Government opposes the motion arguing “it raises matters outside the record and is not necessary to resolve an issue raised by the record”

The court has considered Appellant’s motion, the Government’s opposition, and the applicable law. The court grants Appellant’s motion; however, it specifically defers consideration of the applicability of *United States v. Jessie*, 79 M.J. 437 (C.A.A.F. 2020) and related case law to the attachment until it completes its Article 66, Uniform Code of Military Justice, 10 U.S.C. § 866, review of Appellant’s entire case.

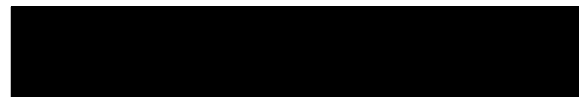
Accordingly, it is by the court on this 18th day of May, 2026,

ORDERED:

Appellant’s Motion to Attach, dated 11 May 2026, is **GRANTED**.



FOR THE COURT



AGNIESZKA M. GAERTNER, Capt, USAF
Commissioner

UNITED STATES)
Appellee,)
)
v.)
)
Airman Basic (E-1))
JACOB A. GRANT)
United States Air Force)
Appellant)

MOTION TO ATTACH)
)
Before Panel No. 1)
)
No. ACM S32804)
)
Filed on: 11 May 2026)
)

Pursuant to Rule 23.3(b) of this Honorable Court's Rules of Practice and Procedure, Appellant hereby moves to attach the following document to the record of trial: Appellant's DD Form 214 (Appendix A).

In his first assignment of error, Appellant asserts that the Air Force lost personal jurisdiction over him because his term of service expired prior to his court-martial. Appellant's DD Form 214 is relevant and necessary for this Court's considerations of his assignment of error.

The Court of Appeals for the Armed Forces held that matters outside the record may be considered “when doing so is necessary for resolving issues raised by materials in the record.” *United States v. Jessie*, 79 M.J. 437, 444 (C.A.A.F. 2020). Here, the DD Form 214 was discussed and referenced at trial. Moreover, an email, which included the DD Form 214 as an attachment to the email, was included as an appellate exhibit. See Appellate Exhibit IV. But the DD Form 214 itself was not included in the record of trial.

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

Respectfully submitted,

[REDACTED]

THOMAS R. GOVAN, JR., Maj, USAF
Appellate Defense Counsel

[REDACTED]

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 Government Trial and Appellate Operations Division on 11 May 2026.

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THOMAS R. GOVAN, JR., Maj, USAF
Appellate Defense Counsel

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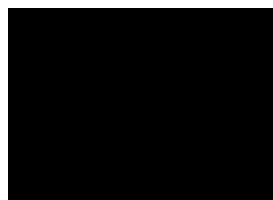
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	UNITED STATES' OPPOSITION
	)	TO MOTION TO ATTACH
	)	
v.	)	Before Panel No. 1
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT	)	
United States Air Force	)	18 May 2026
<i>Appellant.</i>	)	

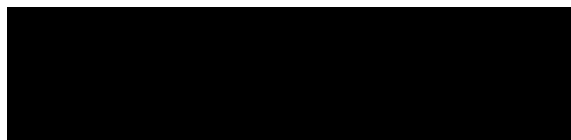
**TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS:**

Pursuant to Rules 23(c) and 23.3(b) of this Court's Rules of Practice and Procedure, the United States respectfully requests this Honorable Court deny Appellant's Motion to Attach, dated 11 May 2026. The United States generally opposes the attachment of Appellant's DD 214 because it raises matters outside the record and is not "necessary to resolve an issue raised by the record" pursuant to United States v. Jessie, 79 M.J. 437 (C.A.A.F. 2020). In its answer brief, the United States will address in further detail why the matters in the DD 214 cannot be considered.

WHEREFORE, the United States respectfully requests that this Honorable Court deny Appellant's motion to attach his declaration.



KATE E. LEE, Maj, USAF
Appellate Government Counsel



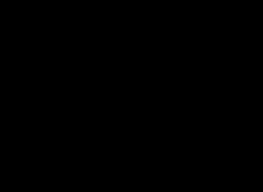
MARY ELLEN PAYNE
Associate Chief
Government Trial & Appellate Operations



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and the Air Force

Appellate Defense Division on 18 May 2026.


K  SAF
Appellate Government Counsel
Government Trial & Appellate Operations


IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	UNITED STATES' ANSWER TO ASSIGNMENTS OF ERROR
	)	
v.	)	Before Panel No. 1
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT	)	
United States Air Force	)	10 June 2026
<i>Appellant.</i>	)	

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

ISSUES PRESENTED

I.

**WHETHER APPELLANT WAS SUBJECT TO THE
PERSONAL JURISDICTION OF THE COURT-MARTIAL.**

II.

**WHETHER APPROPRIATE SENTENCING RELIEF IS
WARRANTED BECAUSE OF THE 249-DAY DELAY BETWEEN
SENTENCING AND DOCKETING WITH THIS
COURT.**

STATEMENT OF CASE

On 11 April 2024, a special court-martial convicted Appellant, consistent with his pleas, of three specifications of wrongfully broadcasting intimate visual images in violation of Article 117a, UCMJ. (*Entry of Judgment*, ROT, Vol. 1.) The military judge sentenced Appellant to a bad-conduct discharge, confinement for 90 days, and a reprimand. (Id.) After considering post-trial submissions, the convening authority took no action on Appellant's case. (*Convening Authority Decision on Action*, ROT, Vol. 1.)

STATEMENT OF FACTS

In mid-2020, Appellant and B.D. began an intimate, non-exclusive relationship. (Pros. Ex. 1, ¶ 5.) Over the course of their relationship, Appellant accumulated various nude or sexually explicit images and videos of B.D. Some were sent to Appellant by B.D. while he was deployed from December 2020 to July 2021, while others were made through consensual recording of their sex acts. (Pros. Ex. 1, ¶¶ 6, 8.) B.D. never gave Appellant consent to share these images or videos with anyone else, and deleted some of them from Appellant's phone on one occasion. (Pros. Ex. 1, ¶¶ 6, 9.)

In November 2021, Appellant suggested to B.D. that he “might accidentally post a naked girl on snap” if B.D. did not meet him the next day, and that if she wanted better from him, she needed to “learn to suck dick.” (Pros. Ex. 1, Atch. 1.) In response, B.D. warned Appellant not to share her images or videos with anyone else: “Don’t post my shit fr¹ or anything with me in it.” (Id.) B.D. emphasized that “[t]his isn’t a debate,” and told Appellant to “[g]et that out [his] head because that’s foul as fuck.” (Id.) Appellant then asked B.D. what she was talking about, to which B.D. did not respond. (Id.) The next day, Appellant asked B.D. if she was “thinking it might go away if [she] ignore[d] it,” to which B.D. replied, “We aren’t doing this.” (Id.) The day after that, Appellant messaged B.D.: “Next time it’s up for an hour.” (Id.) B.D. again told Appellant: “No. Don’t post me.” (Id.) When Appellant suggested that B.D. did not care and that he did not see a problem as a result, she told him not to “hang explicit photos of [her] over [her] head.” (Id.)

¹ The term “fr” is a slang abbreviation for the phrase “for real.” *Fr*, URBANDICTIONARY.COM, <https://www.urbandictionary.com/define.php?term=Fr> (last accessed Jun. 8, 2026).

Several months later, in March 2022, Appellant and B.D. parted ways. (Pros. Ex. 1, ¶ 11.) Shortly thereafter, Appellant began uploading sexually explicit videos of B.D.—videos that he received from B.D. while deployed—to an Instagram account with a username that included B.D.’s first and last name but did not belong to her. (Pros. Ex. 1, ¶ 12.) B.D.’s friend discovered the account and notified B.D., who reported the images to Instagram for removal. (Id.) After Instagram took the videos down, Appellant re-posted them. (Id.) During the law enforcement investigation that followed, Appellant waived his rights and made a statement to the Office of Special Investigations (OSI), in which he admitted that he posted the videos of B.D. because he wanted others to view them and that he did so without B.D.’s permission. (Id.) Subsequently, in October 2022, Appellant accepted nonjudicial punishment for wrongfully broadcasting intimate visual images in violation of Article 117a, UCMJ. (Pros. Ex. 1, Atch. 4.)

In early December 2022—less than two weeks after his nonjudicial punishment closed out²—Appellant opened a Reddit account and created a thread titled “[B.D.],” to which he uploaded various nude and sexually explicit images and videos of B.D. (Pros. Ex. 1, ¶ 14.) Approximately a week after that, Appellant opened a Twitter account with a handle that used B.D.’s first and last name, and uploaded a nude video of B.D. in which her face, pubic area, buttocks, vulva, and anus were visible. (Pros. Ex. 1, ¶ 18.) Around the same time, Appellant also uploaded at least two videos of B.D. to his Snapchat account, which he later broadcast for approximately two weeks between late January 2023 to early February 2023. (Pros. Ex. 1, ¶ 21.) Appellant did this despite knowing that B.D. had not consented to the dissemination of her images and that it would cause her emotional distress. (Pros. Ex. 1, ¶¶ 15, 19, 22.)

² Appellant’s nonjudicial punishment was finalized on 23 November 2022; he began uploading to his Reddit account on 2 December 2022. (*See* Pros. Ex. 1.)

In January 2023, OSI began a second investigation in Appellant after B.D. discovered Appellant's accounts and recognized the explicit videos therein as those she had sent to him. (Pros. Ex. 1, ¶ 13.) A subsequent forensic extraction of Appellant's phone revealed digital artifacts tied to the Reddit, Twitter, Instagram, and Snapchat accounts that were used to upload the intimate visual images of B.D. (Pros. Ex. 1, Atch. 5.) Appellant was then charged with wrongfully broadcasting intimate visual images in violation of Article 117a, UCMJ, and his case referred to trial. (*Charge Sheet*, ROT.) In spring 2024, Appellant pled guilty to all three offenses pursuant to a plea agreement. (Entry of Judgment, ROT; App. Ex. 11.)

ARGUMENT

I.

THE COURT-MARTIAL HAD PERSONAL JURISDICTION OVER APPELLANT.

Additional Facts

Appellant's court-martial convened on 10 April 2024, at which time he entered pleas of guilty. (R. at 1, 12.) During the ensuing guilty plea inquiry, the military judge noted that Appellant's expiration of term of service (ETS) appeared to have occurred approximately two weeks prior on 28 March 2024, and asked the parties to confirm his status. (R. at 101.)

The parties ultimately informed the court of the following facts regarding Appellant's status: (a) Appellant was never placed on admin hold, therefore his term of service expired on 28 March 2024; (b) on 10 April 2024, he received an email stating that his separation was official and that a DD Form 214 was ready for download; (c) he had been paid through his ETS and was in a "no-pay" status, but his account still needed to be reviewed by the base comptroller to determine whether he was owed a final payment of any kind; (d) while some medical and dental systems showed him as "outprocessing" or "separated," he had not actually out-processed

from his unit or finance; and (e) though his common access card (CAC) stopped working at some point prior to trial, he had been issued a new, albeit temporary, CAC that would be valid for several months. (R. 129-130; *Entry of Judgment*, Attachment 2, ROT.) In light of these facts, Appellant and his counsel confirmed that they were not raising a jurisdiction issue and agreed that the Air Force had jurisdiction over him. (R. at 120.)

In a written ruling, the judge agreed. (*Entry of Judgment*, Attachment 3, ROT.) Citing, *inter alia*, United States v. King, 27 M.J. 327 (C.M.A. 1989) and United States v. Christensen, 78 M.J. 1 (C.A.A.F. 2018), for the principle that a discharge is not final unless there is a DD 214, a final accounting of pay, and completion of the “clearing” process required by service regulations, the judge found that the criteria had not been satisfied in Appellant’s case. (Id.) Specifically, the judge found that although Appellant had received a DD 214, he had neither received a final accounting of pay given that he might still receive a paycheck, nor completed the required “clearing process” given that he had not received or completed an out-processing checklist. (Id.) Thus, “the [United States Air Force] has never lost jurisdiction over the accused.” (Id.)

Standard of Review

When an appellant contests personal jurisdiction on appeal, this Court reviews that question of law de novo, United States v. Begani, 81 M.J. 273, 276 (C.A.A.F. 2021), while accepting the judge’s findings of fact “unless they are clearly erroneous or unsupported in the record.” United States v. Hart, 66 M.J. 273, 276 (C.A.A.F. 2008).

Law

“As a general matter, members of the armed forces do not have an unconditional right to be discharged upon their ETS.” Smith v. Vanderbush, 47 M.J. 56, 57 (C.A.A.F. 1997). Thus,

servicemembers “awaiting discharge after expiration of their terms of enlistment,” are subject to court-martial jurisdiction. 10 U.S.C. § 802(a)(1). This jurisdiction is lost “upon [the servicemember’s] discharge from the service, absent some saving circumstance or statutory authorization.” United States v. Howard, 20 M.J. 353, 354 (C.M.A. 1985).

However, while “[a] lawful discharge from military service normally terminates the constitutional and statutory power of a court-martial to try such a person,” Vanderbush, 47 M.J. at 59, the question of a discharge’s finality for jurisdictional purposes is far more nuanced than simply whether or not an Airman’s term of service has expired or a DD Form 214 has been issued. *See* Discussion to R.C.M. 202(a) (“Completion of an enlistment or term of service does not by itself terminate court-martial jurisdiction.”); United States v. King, 27 M.J. 327, 329 (C.M.A. 1989) (“The mere physical transfer of the discharge certificate to appellant was not ‘delivery’ of the discharge as required by law, and, accordingly, court-martial jurisdiction was not lost.”). In determining whether jurisdiction has been terminated by a purported discharge, courts consider whether there has been: (1) delivery of a discharge certificate; (2) a final accounting of pay; and (3) completion of the “clearing” process required under service regulations. United States v. Christensen, 78 M.J. 1, 4 (C.A.A.F. 2018) (citing King, 27 M.J. at 329). These criteria are not binding if strict adherence would “go against reason or policy.” United States v. Nettles, 74 M.J. 289, 291 (C.A.A.F. 2015).

“Notwithstanding any other provision of law,” a servicemember who voluntarily submitted to, received pay and allowances from, and performed duties for the military remains subject to UCMJ jurisdiction “until such person’s active service has been terminated in accordance with law or regulations promulgated by the Secretary concerned.” 10 U.S.C. § 802(c).

Analysis

Here, in contending that the court-martial lost personal jurisdiction over him, Appellant largely hangs his hat on the fact that his term of service expired on 28 March 2024 after the Air Force failed to place him on administrative hold. (*See* App. Br. at 7-9.) In so doing, he attempts to draw a distinction between his circumstances and those present in so-called “early discharge” cases citing the three King/Christensen criteria, which he believes are inapplicable to his case. (*See* App. Br. at 6-14.) But as set forth below, this is a distinction without a difference, and this Court should be unpersuaded. Ultimately, the King/Christensen criteria are applicable to this case, and they have not been fully met; thus, Appellant was never legally discharged from the Air Force, and the court-martial never lost jurisdiction.

1. Vanderbush does not support the proposition that the Air Force lost personal jurisdiction simply upon expiration of Appellant’s term of service.

Appellant asserts first and foremost that the court-martial lost personal jurisdiction because he “was separated from the Air Force on 28 March 2024 by a valid discharge” when his term of service expired after the government’s failure to place him on hold. (App. Br. at 9-10.) As support for the proposition that his ETS automatically divested the service of jurisdiction, Appellant leans on Vanderbush, in which our superior court held that the government lacked jurisdiction to try an ex-soldier who had received a valid “unconditional ETS discharge” after arraignment but before trial. (App. Br. at 9.) Citing parallels such as the expiration of terms of service, timing of preferral, failure to extend the ETS, and receipt of a discharge certificate prior to trial, Appellant avers that his case is “nearly identical” to Vanderbush and that this “compel[s] the conclusion that the Air Force had no personal jurisdiction over [him].” (App. Br. at 9-10.) This Court should be unpersuaded. While Appellant’s case does indeed share some superficial

similarities with Vanderbush, it is distinguishable in several key aspects which make Appellant's reliance on the case inapt.

Unlike in this case, the government in Vanderbush did not contest the validity of the ex-soldier's discharge.³ 47 M.J. at 61 (noting there was no suggestion that the discharge was invalid under Army regulations). As a result, the government's position was not that the ex-soldier's military status remained unchanged, but that there was "continuing jurisdiction" over him based on the fact that he had been arraigned prior to the unconditional ETS discharge. Id. at 59. The concept of "continuing jurisdiction," as noted by the Vanderbush court, has only "limited recognition" in the area of post-trial matters, where it "may be applied for the limited purpose of permitting appellate review and execution of the sentence in the case of someone who *already* was tried and convicted while in a status subject to the UCMJ." Id. (emphasis added). Thus, the "sole issue" before the Vanderbush court was "whether the concept of 'continuing jurisdiction' should be extended to permit trial of a soldier *in SGT Vanderbush's circumstances* who has been discharged." 47 M.J. at 61 (emphasis added). Considering this, Vanderbush's analysis is procedurally and substantively inapposite to this case.

Indeed, to the extent Vanderbush is relevant, it only serves to undermine Appellant's position. In treating the discharge in Vanderbush as a "valid administrative discharge," the Court of Appeals for the Armed Forces (CAAF) noted that (1) "a discharge certificate was delivered to [the appellant]"; (2) he received "computation of final pay and authorization for disbursement of that pay by mail"; and (3) he was "administratively processed for ETS discharge in accordance with standard Army procedures." 47 M.J. at 57. In other words, the ex-soldier's discharge was

³ By the time his court-martial re-convened (in his absence), Vanderbush had departed his overseas duty station and returned to the United States on a government-issued airline ticket. Vanderbush, 47 M.J. at 57.

jurisdiction-ending because it met all three criteria contemplated in King. See Vanderbush, 47 M.J. at 57; *compare with* King, 27 M.J. at 329. This not only demonstrates that any attempt to draw an artificial distinction between Vanderbush and King would be futile, but also highlights a fatal shortcoming in Appellant’s position—his disregard for the reality that “[c]ompletion of an enlistment or term of service does not *by itself* terminate court-martial jurisdiction.” Discussion to R.C.M. 202(a).

By inviting this Court to focus on his ETS and DD 214 and nothing else (App. Br. at 11), Appellant effectively asks this Court to presume that he was validly discharged without running the test for determining whether that is in fact the case. This Court should decline to entertain Appellant’s circular reasoning. Instead, it should consider the King criteria as required by this Court’s own jurisprudence.

2. The King criteria are applicable to this case.

Citing the fact that many of the cases discussing the three King criteria are about “early discharges,” Appellant boldly asserts that it is “neither necessary nor appropriate” to consider those criteria in his case. (App. Br. at 11.) According to Appellant, King was interpreting “civil personnel statutes for guidance and found that those statutes generally required ‘that three elements be satisfied to accomplish an *early discharge*,’” and is inapplicable to ETS-based discharges. (App. Br. at 11) (emphasis in original). Appellant’s understanding of King is incorrect, as is his attempt to limit its applicability. Although the analysis in King was couched in terms of an early discharge based on the facts of the case, the three criteria articulated by the court—a discharge certificate, final accounting of pay, and service-specific clearing process—are all applicable to ETS discharges in the Air Force. See Webb v. United States, 67 M.J. 765, 771 (A.F. Ct. Crim. App. 2009) (noting that King was limited to early discharge cases, but still

finding that all three criteria applied to an ETS discharge due to interplay between statute and service regulations).

As this Court noted in Webb, the first two criteria come from 10 U.S.C. § 1168(a), which provides that “[a] member of an armed force may not be discharged or released from active duty until his discharge certificate or certificate of release from active duty, respectively, *and* his final pay or a substantial part of that pay, are ready for delivery to him or his next of kin or legal representative.” And as this Court pointed out, this statute “makes no reference to early separations”—in other words, its mandate for a valid certificate of discharge and final accounting of pay is applicable to *all* discharges, not just “early” ones. Webb, 67 M.J. at 771. Further, since a discharge certificate “must be issued in accordance with regulatory guidance” to be valid, failure to complete the Air Force’s “clearance process” may render void any discharge certificate that is issued before that process is complete. Id. at 771-772. In this way, the third “clearing” criterion articulated in King is also relevant to ETS discharges, irrespective of the fact that it was originally derived from 10 U.S.C. § 1169⁴, which this Court has distinguished as being applicable only to “early out” cases. *See Webb*, 67 M.J. at 771.

Appellant, for his part, asserts that this Court “wrongly decided” these statutory requirements apply to ETS discharges and invites the Court to adopt his view of Vanderbush, which he implies trumps these requirements.⁵ (*See App. Br.* at 12-14.) In so doing, Appellant betrays his misunderstanding of the hierarchy of laws. Federal statutes are second only to the

⁴ “No regular enlisted member of an armed force may be discharged before his term of service expires, except...as prescribed by the Secretary concerned.” 10 U.S.C. § 1169.

⁵ Despite suggesting that that this Court should overrule Webb, Appellant offers no stare decisis analysis. (*See generally App. Br.* at 13-14.)

Constitution, *see United States v. Lopez*, 35 M.J. 35, 39 (C.M.A. 1992), and “[j]udges are not free to overlook plain statutory commands.” *Bostock v. Clayton Cty.*, 590 U.S. 644, 683 (2020). And as our superior Court recognized, “*Congress* has spoken as to what constitutes a valid discharge,” *King*, 27 M.J. at 329 (emphasis added)—it requires a “discharge certificate...*and* [a] final pay or a substantial part of that pay.” 10 U.S.C. § 1168(a). Although CAAF has also said that these statutory criteria “serve as guidance—not as prerequisites—when it comes to determining whether a discharge has been effectuated for jurisdictional purposes,” *Christensen*, 78 M.J. at 5, deviation from them is justified only if adherence to the criteria would “go against reason or policy,” which the court’s jurisprudence makes clear is a high bar. *See Christensen*, 78 M.J. at 5; *see also Nettles*, 74 M.J. at 292. Put simply, the *King* criteria control in the absence of a good reason to disregard one of them—and here, there is no reason, much less a good one.

Ultimately, active duty servicemembers like Appellant remain subject to military jurisdiction “until such person’s active service has been terminated in accordance with law or regulations promulgated by the Secretary concerned.” 10 U.S.C. § 802(c). And since the law and the implementing regulations promulgated by the Secretary of the Air Force provide that separation is not effective until there has been “receipt of a discharge certificate issued under proper authority, a final accounting of pay, *and* completion of the clearing process established by the USAF or USSF,”^{6,7} there is no question that this Court should be evaluating all these

⁶ Department of Air Force Instruction (DAFI) 36-3211, *Military Separations*, ¶ 3.9.3 (24 June 2022) (emphasis added)

⁷ As this Court previously recognized, “[t]he result of this provision is that although completion of the Air Force clearing process is not a standalone requirement within the sense of *King*, it is effectively a consideration in determining whether a DD Form 214, issued to a member who has not undergone the required clearing process, is ‘issued under proper authority’, and is therefore a ‘valid’ discharge certificate.” *Webb*, 67 M.J. at 772.

criteria—and not just the passing of the ETS—to determine whether Appellant was actually discharged.

3. The totality of the circumstances establish that Appellant was never validly discharged, therefore the Air Force did not lose personal jurisdiction over him.

Here, between the delivery of a discharge certificate, final accounting of pay, and completion of the “clearing” process required by service regulations, King, 27 M.J. at 329, only one criterion has been met—Appellant received a discharge certificate in the form of a DD 214. He did not receive a final accounting of pay or complete the required “clearing” process.

Although Appellant suggests that he “received a substantial part of his final pay” when he received the “paycheck covering his pay period up to [ETS],” (App. Br. at 17), this conflates the receipt of a regularly scheduled paycheck with the final check that a discharged servicemember could receive from the military, which may include payment for unused accrued leave and separation travel allowances.⁸ That Appellant was coded in a “no pay” status does not necessarily mean he was owed no further payment, since a base’s financial management flight (FMF) may suspend regular pay due to separation activity.⁹ Given that Appellant’s account “still needed a review to determine if [he] was owed a final payment for any outstanding amount,”¹⁰ (Ruling, ¶ 9), it is clear that the FMF had not yet begun these “critical calculations, reconciliations, and authorizations of final pay pursuant to DFAS regulations.”

⁸ See Department of Defense Financial Management Regulation, Vol. 7A, Ch. 35, *Separation Payments*, ¶¶ 2.1, 7.1, 7.2 (March 2024).

⁹ DAFMAN 65-116 V1, *Defense Joint Military Pay System Active Component (DJMS-AC) Financial Management Flight (FMF) Procedures*, ¶ 52.5 (8 August 2025).

¹⁰ It is worth noting not only that military judge found this as fact, which makes it binding unless it is clearly erroneous, but also that Appellant *agreed* that this was a fact. (*See Entry of Judgment*, Attachments 2-3, ROT.)

Hart, 66 M.J. at 277. Thus, it cannot logically be said that a “substantial part” of Appellant’s final payment had been paid, since that the FMF had yet to even determine what, if any, that final amount would be. Considering this, Appellant never received a final accounting of pay, and this King criterion is not met.¹¹

Additionally, Appellant never completed the “‘clearing’ process required under appropriate service regulations.” King, 27 M.J. at 329. The Air Force “clearing process,” requires, *inter alia*, a comprehensive physical examination; use of the virtual Outprocessing Checklist (vOP); completion of the Transition Assistance Program; and receipt of separation orders and travel authorizations.¹² The parties agreed and the military judge found as fact that Appellant—who “did not have a unit out-processing checklist loaded on the virtual military personnel flight (vMPF)” —never out-processed with his unit or finance. (*Entry of Judgment*, Attachment 2, ROT.) Thus, this criterion is not met either.

When, as in this case, one or more of the King criteria have not been fully met, the trial judge “must consider the totality of the circumstances in making a jurisdictional determination.” Christensen, 78 M.J. at 5 n.6. And here, those circumstances demonstrate that at the time of his court-martial, Appellant was indeed “a person who [could] be regarded as falling within the term ‘land and naval Forces.’” Begani, 81 M.J. at 276 (quoting Kinsella v. United States ex rel.

¹¹ In concluding that there had been no final accounting of pay, the military judge opined that Appellant “was still owed pay from the time period of 28 March 2024 until 11 April 2024,” which Appellant disputes as “clearly erroneous.” (App. Br. at 17.) Given the FMF’s representation that Appellant might be owed additional pay, it was not clearly erroneous for the judge to infer that Appellant would be compensated for his continued service leading up to the date of the court-martial. But even assuming *arguendo* this conclusion is clearly erroneous, it still does not change the fact that Appellant’s account required review and was not settled for finance purposes.

¹² DAFI 36-2102, *Base-Level Relocation Procedures*, Chapter 4 (16 December 2020).

Singleton, 361 U.S. 234, 240-41 (1960)). There is *no* indication in the record that Appellant “held an objectively reasonable belief that he was no longer in the [Air Force].” Christensen, 78 M.J. at 5. Appellant was never told that he was “out of the [Air Force] now,” *cf. id.*, or flown home and given the impression that he had been discharged into civilian life. *Cf. Vanderbush*, 47 M.J. at 57. As noted by the military judge, Appellant maintained possession of a military CAC—indeed, when his original card stopped working, he obtained a new one. *See United States v. Melanson*, 50 M.J. 641, 644 (A. Ct. Crim. App. 1999) (jurisdiction never terminated because outprocessing was incomplete, as evidenced by fact that appellant still carried a military identification card); *cf. Christensen*, 78 M.J. at 5 (citing return of military identification card as one of circumstances indicating discharge was effective for jurisdictional purposes). Moreover, notwithstanding his “no-pay” status and ETS, Appellant “did not walk away as a discharged civilian”—rather, he voluntarily presented himself to the court-martial in service dress and pled guilty to the charged crimes. *See United States v. Chamblee*, No. 201900279, 2020 CCA LEXIS 417, at *9 (N-M Ct. Crim. App. Nov. 24, 2020) (no loss of jurisdiction despite pay stoppages, CAC deactivation, and expiration of temporary orders, since “other events and facts demonstrat[ed] to Appellant that he was still on active duty”).

Appellant, for his part, avers that his ETS as “the most important factor” because “it is consistent” with Air Force regulations which “provide that members are separated at the expiration of their term of service.” (App. Br. at 15-16.) But this overstates the significance of the ETS: “As a general matter, members of the armed forces do not have an unconditional right to be discharged upon their ETS.” Vanderbush, 47 M.J. at 57. While the regulation provides that servicemembers are “entitled to separation at their ETS,”¹³ there is a qualitative difference

¹³ DAFI 36-3211, ¶ 4.1.

between merely being *entitled* to separation and actually *effectuating* it by completing the “clearing” process required by regulation. *See* Discussion to R.C.M. 202(a) (completion of ETS “does not by itself terminate court-martial jurisdiction.”). This difference is also why Appellant’s emphasis on the government’s failure to institute a hold is unconvincing—because hold or no hold, the administrative out-processing requirements for a legally valid separation remain unchanged. (*See* App. Br. at 16-17.) And hold or no hold, Appellant would need a final accounting of pay before he could walk away.

Unsurprisingly, Appellant disagrees and suggests that this requirement should not be strictly enforced. (*See* App. Br. at 18-19.) In his view, “a decision finding personal jurisdiction in this case based on [the absence of a final accounting] would frustrate the goals of certainty and finality, and thus go against reason and policy,” since a “final accounting” depends on the workings of an administrative apparatus outside his control which makes it unreliable. (App. Br. at 18.) Alternatively, Appellant also contends that because the requirement for “a final accounting” stems from a statute designed to protect servicemembers from the “adverse financial consequences of premature separation,” using it to keep him subject to UCMJ jurisdiction “would turn the statute on its head.” (App. Br. at 19-20.)

Ultimately, these arguments prove unpersuasive because the requirement for a final accounting is a statutory one, implemented by service regulation, *see* 10 U.S.C. § 1168; DAFI 36-3211, and military appellate courts cannot arbitrarily decide when a final accounting should or should not make the difference. Deviating from this statutory requirement is justified only if the court finds that adherence to it would “go against reason or policy,” as in Christensen, where the final accounting was purposefully delayed for the sole purpose of maintaining jurisdiction. 78 M.J. at

5 (where chief of justice asked for pause to final accounting in hopes of retaining ability to exercise jurisdiction in case civilian prosecution of soldier was not to the Army's satisfaction, "reason [and] policy" dictated finding of no jurisdiction). This is not that case. Here, the absence of a final accounting here is not the result of administrative maneuvering designed to retain jurisdiction over someone, who for all intents and purposes, is living a civilian life after a seemingly kosher discharge. *Cf. id.* Thus, there is no reason to deviate from the general requirement for there to be a final accounting of pay in order for the discharge to be legally effective.

To conclude otherwise under the circumstances of this case would "go against reason [and] policy," Christensen, 78 M.J. at 6, given that there is no indication that Appellant was ever uncertain as to his status and whether he was subject to criminal liability under the Code. *See Nettles*, 74 M.J. at 291-92 (discharge jurisprudence's interest in certainty is "important to the servicemember...so that he can guide his conduct with awareness of the potential (or not) for criminal liability under the UCMJ"). When Appellant voluntarily presented himself to the court-martial in order to plead guilty, he still had a working CAC; did not realize he had a DD 214 available for download; had no idea whether there had been a final accounting of pay; had not out-processed his unit; and believed the Air Force had jurisdiction over him. (*See R.* at 105, 129.) That is a far cry from the appellant in Christensen, who "cleared post, turned in his military identification card, and [had] been told by the unit's official representative that he was 'out of the Army now,'" and proceeded to spend the next few months living as a discharged veteran would, "us[ing] private funds for his rehabilitation facility and dental work... receiv[ing] correspondence from the Department of Veterans Affairs about the benefits he now was entitled

to receive as a veteran, and expect[ing] no final pay because he owed the government money.”
78 M.J. at 5.

Considering the above, this Court should find that the totality of the circumstances demonstrates that Appellant was never legally discharged and that the Air Force therefore maintained personal jurisdiction over him at all pertinent times.

WHEREFORE, the United States respectfully requests that this Honorable Court affirm Appellant’s convictions and sentence.

II.

APPELLANT IS NOT ENTITLED TO SENTENCING RELIEF FOR POST-TRIAL PROCESSING DELAY.

Additional Facts

Appellant was sentenced on 11 April 2024. (*Entry of Judgment*, ROT.) Due to her other reporting duties, the court reporter did not finish transcribing the record in this case—which was 1,439 pages—until 9 August 2024, 121 days after Appellant’s case had concluded. (*Court Reporter Chronology*, ROT.) On 9 September 2024, the legal office distributed copies of the record; a week later, they sent the record to 7 AF/JA for review. (TSgt Joseph Pain Declaration, 8 Jun 26.) Between 16 September 2024 and 11 December 2024, 7 AF/JA reviewed the record. (Id.) On 11 December 2024, the record was forwarded to the Military Justice Policy Division (JAJM). (Id.) After receiving the record of trial on 11 December 2024 and reviewing it for errors, JAJM delivered the record to this Court on 12 December 2024. (TSgt Dylan Klenske Declaration, dated 4 June 2026.) On 16 December 2024, this Court docketed Appellant’s case. (Id.) The total time elapsed between sentence and docketing was 249 days. Between the

docketing of his case and his submission of assignments of error, Appellant requested fourteen (14) enlargements of time, ultimately consuming 466 days.

Standard of Review

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

Law & Analysis

Pursuant to Article 66(d)(2), UCMJ, this Court “may provide appropriate relief” if an appellant demonstrates excessive post-trial processing delay. Post-trial processing delay is “facially unreasonable” if an appellant’s case is docketed with the Courts of Criminal Appeal (CCA) more than 150 days after sentencing, Livak, 80 M.J. at 634, and/or the appellate court’s decision is not rendered within 18 months of being docketing. Moreno, 63 M.J. at 142-143. When there has been facially unreasonable delay, this Court considers whether the delay amounts to a due process violation using the following four factors from Barker v. Wingo, 407 U.S. 514, 530 (1972): (1) the length of the delay; (2) the reasons for the delay; (3) the appellant’s assertion of his right to a timely review; and (4) prejudice to the appellant. Moreno, 63 M.J. at 135 (citing Barker, 407 U.S. at 530). Where an appellant has failed to show prejudice, this Court “cannot find a due process violation unless the delay is so egregious as to ‘adversely affect the public’s perception of the fairness and integrity of the military justice system.’” Livak, 80 M.J. at 634 (quoting United States v. Toohey, 63 M.J. 353, 362 (C.A.A.F. 2006)).

Here, Appellant expressly disclaims that the post-trial delay is a due process violation: “Appellant does not allege that the delay thus far has violated his constitutional due process right to timely appeal.” (App. Br. at 21.) Instead, Appellant merely seeks relief under this Court’s

express statutory authority to grant “appropriate relief” for excessive post-trial delay. (App. Br. at 21-23.) Accordingly, this Court should deem any due process argument waived. *See* Hulbert v. Chicago, 202 U.S. 275, 281 (1906) (“Errors assigned but not noticed or relied on in the brief or argument of counsel will be regarded as waived or abandoned.”); United States v. Abbas, 165 F.4th 659, 675 n.16 (1st Cir. 2026) (argument not made in opening brief deemed waived); United States v. Walton, 145 F.4th 476, 489 (4th Cir. 2025) (“Merely identifying an appellate issue does not preserve every theoretical argument for relief on that issue.”). But even if this Court does not deem any post-trial due process claim waived, Appellant is unentitled to relief.

A. The delay did not violate Appellant’s due process rights.

Here, an examination of the Barker factors reveals that the post-trial processing in this case—both before and during the remand—did not amount to a due process violation.

1. Length of the Delay:

Because the initial post-trial processing in this case took 249 days and thereby exceeded the Livak threshold (150 days) by 99 days, the initial delay is presumptively unreasonable. Thus, this factor likely weighs in Appellant’s favor. However, this does not end the inquiry. Consideration of the remaining factors reveals that there is no entitlement to relief.

2. Reasons for the Delay

Like other cases before this one, the initial delay here stemmed from “scarce and heavily tasked court-reporter resources.” *See, e.g., United States v. Rothe*, No. ACM 39817, 2021 CCA LEXIS 117, at *34 (A.F. Ct. Crim. App. Mar. 24, 2021); United States v. Jones, No. ACM 39766, 2021 CCA LEXIS 73, at *39-40 (A.F. Ct. Crim. App. Feb. 17, 2021). Between trial and transcription sessions for this case, the detailed court reporter attended hearings and transcribed records for 11 other cases. (*Court Reporter Chronology*, ROT.) While the length of time it took

to transcribe this case is admittedly “not ideal,” Rothe, 2021 CCA LEXIS 117, at *34, this was not a “deliberate attempt to delay the [post-trial processing] in order to hamper the defense.” Barker, 407 U.S. at 531. As in Rothe, there is “no indication the Government was either intentionally or negligently dilatory in completing this transcription.” 2021 CCA LEXIS 117, at *34. Similarly, there is no evidence that the administrative delay resulting from 7 AF/JA’s review of the record was “intentionally or negligently dilatory.” Id. However, given that “administrative issues are not legitimate reasons” for post-trial delay, this factor likely weighs slightly in Appellant’s favor. United States v. Arriaga, 70 M.J. 51, 52 (C.A.A.F. 2011).

3. Assertion of the Right to Timely Review and Appeal

“Whether and how a defendant asserts his right [to speedy post-trial processing] is closely related to the other factors” this Court must examine, and goes to the “evidentiary weight” that the assertion should receive. Barker, 407 U.S. at 531. Here, Appellant never asserted this right. (*See generally Post-Sentencing*, ROT.) In other words, Appellant did not deem any post-trial delay serious enough to complain. *See* Barker, 407 U.S. at 531 (“The more serious the deprivation, the more likely a defendant is to complain.”). Accordingly, this factor weighs in favor of the Government. *Cf.* Toohey, 63 M.J. at 360 (finding this factor weighed “heavily in favor” of an appellant who “repeatedly asserted his right to timely review and appeal”).

4. Prejudice

“Prejudice due to post-trial delay is assessed in light of the potential impact on the appellate process.” United States v. Anderson, 82 M.J. 82, 87 (C.A.A.F. 2022). In making this assessment, courts consider three interests: (1) the prevention of oppressive incarceration pending appeal; (2) anxiety and concern; and (3) limiting the possibility that a convicted person's

grounds for appeal and defenses, in case of retrial, might be impaired. Id. Here, Appellant does not allege prejudice at all. (App. Br. at 33-34.) This Court should take Appellant's silence for what it is: a tacit admission that he did not suffer any prejudice from the post-trial delay. Considering this, there is no prejudice and this factor weighs heavily in favor of the Government.

Since there is no prejudice, this Court cannot find a due process violation unless "in balancing the other three factors, the delay is so egregious that tolerating it would adversely affect the public's perception of the fairness and integrity of the military justice system." Toohey, 63 M.J. at 362. And here, balancing the other factors—the delay, the reasons for delay, and the absence of a request for speedy post-trial processing—against the absence of prejudice leads to the conclusion that the delay was not "egregious" within the meaning of Toohey, 63 M.J. at 362; *see also* United States v. Martinez, No. ACM 39903 (reh)(f rev), 2025 CCA LEXIS 494, at *41 (A.F. Ct. Crim. App. Oct. 31, 2025) ("[W]e do not find the [324-day] delay from sentencing to docketing was so egregious as to impugn 'the fairness and integrity of the military justice system.'"). While not minimal, the delay in this case pales in comparison to examples of truly egregious delay. *Cf.* Toohey, 63 M.J. at 359 (2,240-day delay, unjustifiable reasons for delay, and repeated requests for speedy post-trial review weighed in favor of finding a due process violation). Indeed, courts have denied relief in cases with post-trial far greater than this one. *See, e.g.,* United States v. Anderson, 82 M.J. 82, 86 (C.A.A.F. 2022) (no relief warranted despite 481-day delay); United States v. Bush, 68 M.J. 96, 104 (C.A.A.F. 2009) (no relief warranted despite 7-year delay). Considering this, this Court should find that there is no due process violation and deny relief.

B. Even if there was a due process violation, it was harmless beyond a reasonable doubt.

Even if this Court finds a due process violation, no relief is warranted because the totality of circumstances shows that the delay in this case was harmless beyond a reasonable doubt.

Toohey, 63 M.J. at 363. The processing of Appellant’s case was neither deliberately delayed nor delayed in the face of repeated requests for speedy processing. *Cf. id.* And critically, Appellant was not prejudiced—the delay did not render his incarceration oppressive, cause particularized anxiety, or preclude him from raising defenses on appeal. Ultimately, Appellant’s claim appears to hinge purely on the fact that there was delay. But since courts “do not presume prejudice based on the length of the delay alone,” *id.*, this Court should find that the totality of the circumstances demonstrates that the delay was harmless beyond a reasonable doubt. “To find otherwise would essentially adopt a presumption of prejudice in cases where the appellate court has found a due process violation as a result of unreasonable post-trial delay in the absence of Barker prejudice”—something our superior Court has already declined to do. Bush, 68 M.J. at 104; *see also* Toohey, 63 M.J. at 363 (“we do not presume prejudice based on the length of the delay alone”).

C. Relief is unwarranted under Article 66(d)(2), UCMJ.

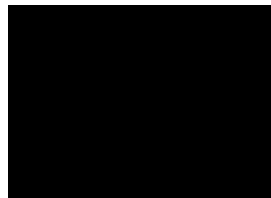
Finally, Appellant is unentitled relief under Article 66(d)(2). The mere existence of delay does not necessarily warrant relief. Even in cases with far greater delay, courts have declined to award relief of any kind. *See, e.g.,* Anderson, 82 M.J. at 84-86 (affirming CCA’s decision not to grant relief where 481-day delay was not deemed a due process violation); United States v. Bush, 68 M.J. 96, 104 (C.A.A.F. 2009) (affirming CCA’s decision not to grant relief despite seven-year post-trial delay). This case should be no exception. While the administrative delay in post-trial processing is regrettable, it does not diminish society’s interest in punishing Appellant for repeatedly violating B.D.’s autonomy and dignity. Considering the seriousness of Appellant’s crime and the absence of prejudice, a lesser sentence is not “suitable under the facts and circumstances of [this] case.” United States v. Valentin-Andino, 85 M.J. 361, 363 (C.A.A.F.

2025). Granting Appellant his requested relief by disapproving his bad conduct discharged would result in an undeserved and unacceptable windfall, and would not be appropriate relief. *See United States v. Annis*, No. ACM 38001 (rem), 2015 CCA LEXIS 379, at *17 (A.F. Ct. Crim. App. Sep. 3, 2015) (“[S]etting aside Appellant's sole punishment of a punitive discharge would be an intolerable windfall.”)

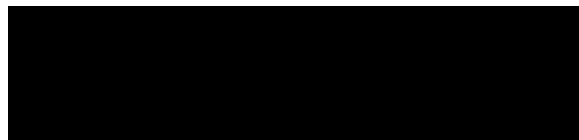
WHEREFORE, the United States respectfully requests that this Honorable Court affirm Appellant’s convictions and sentence.

CONCLUSION

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



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations



MARY ELLEN PAYNE
Associate Chief
Government Trial & Appellate Operations



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and the Air Force

Appellate Defense Division on 10 June 2026.



K SAF
Appellate Government Counsel
Government Trial & Appellate Operations



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee,

v.

Airman Basic (E-1)

JACOB A. GRANT,

United States Air Force,

Appellant.

**REPLY BRIEF ON BEHALF OF
APPELLANT**

Before Panel No. 1

No. ACM S32804

Filed on: 17 June 2026

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

Appellant, Jacob A. Grant, by and through his undersigned counsel and pursuant to Rule 18(d) of this Honorable Court's Rules of Practice and Procedure, files this reply to the Appellee's answer of 10 June 2026 (hereinafter Gov. Ans.). Appellant stands on the arguments in his initial brief, filed on 11 May 2026 (hereinafter App. Br.), and submits additional arguments below.

**I. THE AIR FORCE LOST PERSONAL JURISDICTION OVER THE
APPELLANT TO TRY HIM BY COURT-MARTIAL.**

The government's brief attempts to dip and dodge around the undisputed facts in this case: that Appellant's term of service expired prior to his trial, he received a DD 214, and the government failed to place a hold on him prior to his trial. In doing so, the government also attempts to minimize the controlling caselaw concerning a nearly identical case, *Smith v. Vanderbush*, 47 M.J. 56 (C.A.A.F. 1997), which dealt with a discharge due to an expired term of service. Further, the government's brief compounds these errors by overemphasizing a factually distinct case, *United States v. King*, 27 M.J. 327, 329 (C.M.A. 1989). Indeed, the government's reliance on *King* demonstrates its misunderstanding of the controlling caselaw. The Court of

Appeals for the Armed Forces (CAAF) has said the *King* factors are not binding and this Court has said they need not be applied in full in an expiration of term of service case like the Appellant's.

The undisputed facts and binding caselaw establish that the Appellant was validly discharged. Thus, the Air Force lost personal jurisdiction over him, prior to his trial, when his term of service expired on 28 March 2024. Given personal jurisdiction cannot be waived, on that date, the Appellant became a civilian, regardless of the fact that he later appeared for trial on 10-11 April 2024. The government's brief does nothing to diminish these facts, and, as detailed below, its attempts to distinguish Appellant's case fail.

A. *Vanderbush* controls here and establishes that the Air Force lost jurisdiction over Appellant.

A valid discharge based on the expiration of a term of service terminates court-martial jurisdiction. *Vanderbush*, 47 M.J. at 59 (“A lawful discharge from military service normally terminates the constitutional and statutory power of a court-martial to try such a person, even for offenses allegedly committed prior to the discharge.”). That is because “the authority to retain an individual on active duty is discretionary and not self-executing.” *Id.* at 58. Just as in *Vanderbush*, the government here did not initiate an administrative hold on Appellant and there is nothing in the record suggesting that the DD 214 issued to the Appellant was invalid or issued without authority. *Id.* at 58-59; *see also* Ruling: Jurisdiction over the accused, 6 May 2024 (“Ruling”) at 2, 4. Thus, just as in *Vanderbush*, the Air Force lost personal jurisdiction over the Appellant. *Id.* at 61.

The government concedes there are “parallels” between *Vanderbush* and the facts in Appellant's case. Gov. Ans. at 7. The government still tries to distinguish *Vanderbush* from Appellant's case, contending that the validity of the ex-soldier's discharge in that case was not contested. Gov. Ans. at 8. The government continues that its arguments in *Vanderbush* were

different, in that it contended that despite the discharge, there was still continuing jurisdiction over the ex-soldier. *Id.* The government's arguments are unconvincing for several reasons.

First, the government fails to cite any authority stating that whether the government contests the validity of a discharge is a relevant factor for personal jurisdiction over a military accused. It may have been relevant if the government pointed to evidence in the record that an administrative hold had been issued to Appellant (i.e. a showing that the discharge was invalid or without authority). But the government's mere disagreement with Appellant's discharge does not change the fact that he was in fact lawfully discharged based on the expiration of his term of service and was issued a DD 214.

In any event, the record demonstrates the DD 214 issued to Appellant was valid. The government fails to point to any evidence in the record showing the DD 214 that was issued to Appellant was improperly issued or issued without authority. Gov. Ans. at 12. Instead, it concedes that Appellant did receive a DD 214. *Id.* Despite the government's attempt to package its arguments here as raising something different than in *Vanderbush* (i.e. challenging the validity of the discharge in Appellant's case), the government is essentially making the same argument it made in *Vanderbush*: that despite the valid issuance of a discharge certificate based upon the expiration of a term of service and the lack of an administrative hold, jurisdiction should continue over the Appellant. Just as in *Vanderbush*, that argument fails.

Finally, whether the government challenges the validity of Appellant's discharge does not change the fact that *Vanderbush*'s holding applies here. Like *Vanderbush*, Appellant's case is one of the rare cases where the facts establish that he was discharged prior to trial. Appellant's term of service expired, and a valid DD 214 was issued to him. The government could have placed an administrative hold on him. *See Vanderbush*, 47 M.J. at 61 ("Existing regulations also provide

broad administrative authority for commanders to identify servicemembers facing trial by court-martial and to withhold favorable actions, such as ETS discharges, until court-martial actions are completed.”). Just as in *Vanderbush*, because the government failed to do so here, it lost jurisdiction over Appellant.

The government also claims that *Vanderbush* actually cuts against Appellant because the ex-solider in that case was “was administratively processed for ETS discharge in accordance with standard Army procedures,” in an apparent reference to the *King* factors. Gov. Ans. at 8-9 (first citing *Vanderbush*, 47 M.J. at 57; and then citing *King*, 27 M.J. at 329). But contrary to the government’s contention, *Vanderbush* establishes the lack of personal jurisdiction in Appellant’s case. There is no evidence in the record showing the DD 214 issued to Appellant was not valid. Moreover, the *Vanderbush* Court did not even cite *King* in its opinion. To the extent the government suggests that *Vanderbush* should not control here because the Appellant did not establish the three *King* factors, this argument is wrong because the CAAF has held that those factors are not binding and serve only as guidance. *United States v. Christensen*, 78 M.J. 1, 4 (C.A.A.F. 2018). Here, because this case falls under the facts of *Vanderbush*, no further analysis is required. The undisputed facts compel the conclusion that the Air Force had no personal jurisdiction over Appellant.¹

¹ Citing the Discussion to Rules for Court-Martial (R.C.M.) 202(a), the government also notes that the “[c]ompletion of an enlistment or term of service does not by itself terminate court-martial jurisdiction.” Gov. Ans. at 9 (emphasis omitted). Appellant has not argued otherwise. Of course, an expiration of term of service does not automatically end court-martial jurisdiction. In fact, the government is able to administratively hold an accused for trial. But “[m]embers are entitled to separation at their ETS [expiration of term of service] unless there is a specific authority for their retention.” Department of Air Force Instruction (DAFI) 36-3211, *Military Separations*, ¶ 4.1 (24 June 2022). And the specific authority to hold a member past the expiration of term of service is a hold memorandum. DAFI 36-3211, ¶ 4.4.2. Because no administrative hold was issued in Appellant’s case, the valid DD 214 issued to Appellant based on the expiration of his term of service did terminate court-martial jurisdiction under the facts of this case.

B. Even if this Court decides to consider the *King* factors, only two of those factors apply here.

If this Court considers the *King* factors in Appellant's case, this Court should only consider the first two factors, specifically, whether the appellant received a valid certificate of discharge and whether the appellant received his final pay or a substantial part of that pay. In *Webb v. United States*, 67 M.J. 765, 771 (A.F. Ct. Crim. App. 2009), this Court held that in a situation where an appellant is discharged based on an expiration of term of service, "we look *only* to whether the mandate of 10 U.S.C. § 1168(a) has been met, i.e., whether the petitioner received a valid certificate of discharge and a final accounting of pay." (Emphasis added). *Webb* further held that, in factual circumstances like the Appellant's case, the third *King* factor, specifically, the "completion of the service administrative clearing process, does not apply, at least as a stand alone requirement." 67 M.J. at 771.

The government's arguments on this point are neither clear nor convincing. On the one hand, it acknowledges *Webb*, Gov. Ans. at 9-10, and suggests that only the first two *King* factors apply to determining a valid discharge in a case involving an expiration of term of service. Gov. Ans. at 11 (noting that 10 U.S.C. § 1168(a) requires a "discharge certificate . . . and [a] final pay or a substantial part of that pay.") (Emphasis omitted). On the other hand, the government still insinuates that, despite conceding that Appellant's case involves an expiration of term of service, the third *King* factor should be considered, seizing on language from *Webb* that the administrative clearing process could still be relevant to whether the first *King* factor (whether a valid discharge certificate has been issued) has been established. Gov. Ans. at 10; *see also Webb*, 67 M.J. at 771, n 8.

The government's over-reliance on *Webb* for the proposition that the third *King* factor should be considered in Appellant's case is misplaced because that case involved facts that are not

present here. In *Webb*, this Court found that the issuance of the DD 214 was invalid, based on “most particularly the [Staff Judge Advocate]’s placement of the member on administrative hold.” 67 M.J. at 772. Because of this, *Webb* noted that the “administrative clearing process” criterion was relevant to the first *King* factor because had the appellant out-processed properly, he would have been prevented from separating because he would have been alerted to the administrative hold. *Id.*

But there are no facts like this in Appellant’s case. It is undisputed that the government failed to issue an administrative hold here. It is also undisputed that the DD 214 in Appellant’s case was validly issued. Indeed, the military judge found that the Appellant had received a DD 214 and did not make any finding that it was invalid. Ruling at 4. Notably, the government does not challenge this factual finding. Gov. Ans. at 5. Thus, the third *King* factor has no application here. Rather, Appellant’s case contains the same facts that *Webb* noted distinguished that case from *Vanderbush*, namely, “the lack of evidence in the record to challenge the validity of the discharge certificate, including lack of any administrative hold on the accused, and the commander’s failure to take any action to stop the pending discharge.” 67 M.J. at 772. Accordingly, *Webb* makes clear that, even if this Court were to consider the *King* factors in Appellant’s case, only the first two factors apply here.

C. The totality of circumstances demonstrates that Appellant was not subject to court-martial jurisdiction at the time of his trial, even when considering the *King* factors.

Even if this Court applies the *King* factors to this case based on *Webb*, the totality of the circumstances confirms the Air Force did not have personal jurisdiction over Appellant at the time of trial. Because the *King* factors serve only as guidance, the CAAF mandates that a reviewing

court “must consider the totality of the circumstances in making a jurisdictional determination.” *Christensen*, 78 M.J. at 5 n.6.

As alternative arguments in his opening brief, Appellant noted numerous circumstances that established he was discharged and that the Air Force lost jurisdiction, including the undisputed fact that Appellant’s term of service expired, the lack of an administrative hold, that the first *King* factor was established (the issuance of a DD 214), and that the second *King* factor was established because a substantial portion of Appellant’s pay was delivered to him. App. Br. at 15-18. The government attempts to minimize these facts, but its efforts fail.

The government first contends that Appellant never received a final accounting of pay because the military judge found that Appellant’s account still needed to be reviewed to determine if he was owed a final payment. Gov. Ans. at 12-13. But this argument ignores the fact that this *King* factor is based on Section 1168(a), which in turn states that a member is discharged or released from active duty when “his final pay or *a substantial part of that pay*, are ready for delivery to him.” *King*, 27 M.J. at 329 (emphasis added). Here, the undisputed facts show that Appellant received a paycheck covering his final pay period before the expiration of his term of service on 28 March 2024 and that he currently was coded in a no-pay status. Ruling at 2. Moreover, the government fails to recognize that, while the finance office did still have to review his case, there was a possibility that Appellant would receive a perfunctory paycheck of \$0.00. R. at 128; Ruling at 2. Given these facts, it is hard to fathom what else would need to be accomplished to show that Appellant had “substantially” received his final pay.²

² The government again makes much of the fact that Appellant did not complete the clearing process. Gov. Ans. at 13. Apart from the fact that the record demonstrates that he completed the transition assistance program, was medically out-processed, and was displayed in Air Force systems as either “separated or out-processing,” R. at 123, 130, this argument is off-point. As noted above, even if the *King* factors are considered in this case, *Webb* makes clear that this factor does

The government also argues that the totality of circumstances weighs against a finding that Appellant was discharged because the record does not show the Appellant had an objectively reasonable belief that he was no longer in the Air Force, Gov. Ans. at 14, but this argument is unpersuasive for at least two reasons. First, the lack of personal jurisdiction is jurisdictional. Thus, whether the Appellant subjectively believed he was in the Air Force is immaterial. Second, *Christensen* does not require that an accused's belief about whether he was discharged must be considered in a personal jurisdiction analysis. The CAAF simply noted that, in that case, the appellant had a reasonable belief that he was out of the Army that could be considered in support of the fact that the totality of circumstances weighed in favor of a finding of lack of personal jurisdiction. 78 M.J. at 5.

Further, the government downplays the importance of both the fact that Appellant's term of service expired and that the government failed to obtain an administrative hold. Gov. Ans. at 14-15. The government contends that the lack of an administrative hold was "uncompelling" because "hold or no hold, the administrative out-processing requirements for a legally valid separation remain unchanged." Gov. Ans. at 15. The government is wrong. Its circular reasoning and continued reliance on the lack of completed out-processing (which bears little relevance in an expiration of term of service case) does nothing to weaken the critical importance of the undisputed fact that no administrative hold was obtained. In an expiration of term of service case, the lack of an administrative hold is *the* critical factor in determining whether court-martial jurisdiction was lost.

not apply "as a stand alone requirement" in the case of a discharge due to expiration of term of service like Appellant's. *Webb*, 67 M.J. at 771.

For example, in *Vanderbush*, the CAAF held that a discharge certificate issued after the member had been arraigned on court-martial charges was sufficient to sever jurisdiction. 47 M.J. at 58, 61. The central fact in that case involved the lack of any administrative hold on the accused. Specifically, the CAAF noted that the “Army had authority under the Constitution, the Uniform Code of Military Justice, or the Manual for Courts-Martial to retain [the appellant] on active duty through the period of trial, sentence, and review,” but that “they did not do so.” *Id.* at 58. And in *Webb*, this Court relied heavily on the fact that, unlike Appellant’s case, an administrative hold had been issued in determining that the Air Force had jurisdiction over the appellant in that case. 67 M.J. at 772. Specifically, this Court held that “most particularly the SJA’s placement of the member on administrative hold” showed that the DD 214 was invalidly issued. *Id.* Contrary to the government’s view, the lack of an administrative hold is the key fact that makes Appellant’s case nearly identical to *Vanderbush* and distinguishable from *Webb*.

Finally, the government clings to a rigid adherence to the *King* factors, arguing that the requirement for a final accounting of pay under 10 U.S.C. § 1168 is statutory and that courts can deviate from following this statutory requirement “only” if a court finds adhering to this factor would go against reason or policy. Gov. Ans. at 15. Once again, the government is wrong, and its arguments conflict with *Christensen*. Notably, *Christensen* emphasized that the *King* factors as a general matter are mere guidance: “the three criteria . . . serve as *guidance*—not as *prerequisites*—when it comes to determining whether a discharge has been effectuated for jurisdictional purposes.” *Christensen*, 78 M.J. at 5 (emphasis in original) (citing *United States v. Hart*, 66 M.J. 273, 277, n.5 (C.A.A.F. 2008) (“We have relied on 10 U.S.C. § 1168(a) for *guidance* in determining the moment of discharge for purposes of UCMJ jurisdiction”)) (emphasis added)). While the *Christensen* Court noted that this guidance is not binding when it would go against reason or policy, it did not hold that this was the only scenario in which the *King* factors could be

treated as guidance. *Id.* at 4. Indeed, contrary to the government’s suggestion, after *Christensen*, the *King* factors globally serve at most as guidance, because the CAAF made clear that “if one or more of these criteria have not been fully met, then the military trial judge must consider the totality of the circumstances in making a jurisdictional determination.” 78 M.J. at 5, n. 6. In any event, as noted in the Appellant’s opening brief, under the totality of circumstances, it would go against reason and policy for this Court to determine that the Air Force retained personal jurisdiction over Appellant in this case where departmental policy creates a general presumption that a member is separated at the expiration of the term of service. DAFI 36-3211, ¶ 4.1. *See App. Br.* at 18-20. Thus, (1) Appellant substantially established the existence of the two *King* factors that arguably could apply here; (2) that guidance aside, the totality of circumstances confirms that he was not subject to court-martial jurisdiction; and (3) any conclusion to the contrary would go against reason and policy.

WHEREFORE, Appellant respectfully requests that this Honorable Court set aside the findings of guilty to the charge and specification and the sentence for lack of personal jurisdiction.

II. APPELLANT IS ENTITLED TO SENTENCE RELIEF BECAUSE OF THE 249-DAY DELAY BETWEEN SENTENCING AND DOCKETING WITH THIS COURT.

As demonstrated in his initial brief, Appellant is entitled to sentence relief from this Court for the 249-day post-sentencing delay because of the Air Force’s systemic problem of unreasonable delay in providing records of trial to this Court for docketing. *See* 10 U.S.C. § 866(d)(2). Appellant further cited nearly twenty examples of cases before this Court that were not docketed within the 150-day standard. *App. Br.* at 22.

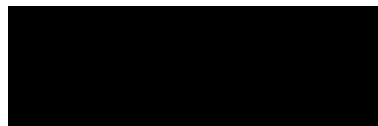
The government does little to account for the systemic issues plaguing the Air Force regarding post-trial processing delays. Instead, the government concedes such failures exist and

are “regrettable,” but contends that society still has an interest in punishing Appellant. Gov. Ans. at 22. Contrary to the government’s contention, the gravity of the post-sentencing delay in this case and across the Air Force make sentencing relief suitable under the specific circumstances here. This conclusion is further supported by the fact that Appellant’s term of service expired prior to his court-martial.

Finally, sentencing relief is appropriate for this Court to provide meaningful relief to Appellant under Article 66, UCMJ. That can be achieved by, at a minimum, disapproving of the bad-conduct discharge. While the government labels the systemic post-sentencing delay “regrettable,” Gov. Ans. at 22, it appears nothing substantive is being done to fix this failure, given the sheer magnitude of the cases listed in the Appellant’s opening brief show that this trend is continuing. The problem has reached a point where this Court must address this issue with appropriate sentencing relief or else the evidence suggests this problem will continue to fester.

WHEREFORE, Appellant respectfully requests this Court grant sentence relief by, at a minimum, disapproving of the bad-conduct discharge.

Respectfully submitted,

A large black rectangular redaction box covering the signature of the Appellate Defense Counsel.

THOMAS R. GOVAN, JR., Maj, USAF
Appellate Defense Counsel

A black rectangular redaction box covering the contact information of the Appellate Defense Counsel.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via electronic mail to the Court and served on the Government Trial and Appellate Operations Division on 17 June 2026.



THOMAS R. GOVAN, JR., Maj, USAF
Appellate Defense Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	UNITED STATES’ MOTION TO ATTACH DOCUMENTS
	)	
	)	
v.	)	Before Panel No. 1
	)	
Airman Basic (E-1)	)	No. ACM S32804
JACOB A. GRANT	)	
United States Air Force	)	10 June 2026
<i>Appellant.</i>	)	

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

Pursuant to Rules 13.2(b), 17.2(b), 23.3(b) and 23.3(o) of this Court’s Rules of Practice and Procedure, the United States moves the Court to attach the following documents to the record:

- Appendix A – Declaration of TSgt Joseph Pain, dated 8 Jun 26 (1 page)
- Appendix B – Declaration of TSgt Dylan Klenske, dated 4 Jun 26 (1 page)

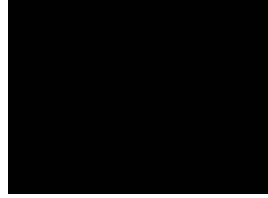
Matters outside the record may be considered when “claims and issues are raised by the record but are not fully resolvable by the materials in the record.” United States v. Jessie, 79 M.J. 437, 442 (C.A.A.F. 2020). Our superior Court concluded that “based on experience . . . ‘extra-record fact determinations’ may be ‘necessary predicates to resolving appellate questions.’” Id. at 442 (quoting United States v. Parker, 36 M.J. 269, 272 (C.M.A. 1993)). Appellant alleges, inter alia, that he is entitled to relief for post-trial delay during the processing of his record of trial. (App. Br. at 20-23.) The attached appendices provide information about the post-trial processing in this case, and are therefore relevant and necessary to address the issue of post-trial

which is “not fully resolvable by the materials in the record.” Jessie, 79 M.J. at 442.

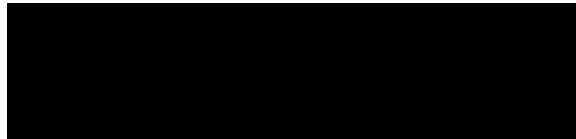


GRANTED
18 JUN 2026

WHEREFORE, the United States respectfully requests this Court grant this Motion to Attach Documents.



KATE E. LEE, Maj, USAF
Appellate Government Counsel
Government Trial & Appellate Operations Division

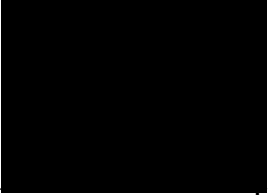


MARY ELLEN PAYNE
Associate Chief
Government Trial & Appellate Operations Division



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court, the Air Force Appellate Defense Division, and civilian defense counsel on 10 June 2026.


K  USAF
Appellate Government Counsel
Government Trial & Appellate Operations Division
