

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	NOTICE OF DIRECT APPEAL
<i>Appellee,</i>	)	PURSUANT TO ARTICLE
	)	66(b)(1)(A), UCMJ
v.)	
)	
)	
Airman First Class (E-3),	)	No. ACM SXXXXXX
TRI N.C. HOANG,)	
United States Air Force,	)	14 August 2023
<i>Appellant.</i>)	

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

On 10 August 2022, a military judge sitting as a special court-martial convened at Vance Air Force Base, Oklahoma, convicted Airman First Class (A1C) Tri N.C. Hoang, consistent with his pleas, of one charge and one specification of wrongful use of cocaine; one specification of wrongful use of 3,4-methylenedioxymethamphetamine, a Schedule I controlled substance; one specification of wrongful use of psilocybin, a Schedule I controlled substance; one specification of wrongful introduction of psilocybin, a Schedule I controlled substance; and one specification of wrongful distribution of psilocybin, a Schedule I controlled substance, in violation of Article 112a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 912a (2019).¹ The military judge sentenced A1C Hoang to confinement for 180 days, forfeiture of \$1,190.00 pay per month for six months, and reduction to the grade of E-1. (Entry of Judgement, 29 August 2022).

¹ Appellant pled not guilty to one specification of wrongful use of marijuana, in violation of Article 112a, UCMJ, and the specification was withdrawn and dismissed with prejudice.

On 18 May 2023, the Government purportedly sent A1C Hoang the required notice by mail of his right to appeal within 90 days. Pursuant Article 66(b)(1)(A), UCMJ, A1C Hoang files his notice of direct appeal with this Court.

Respectfully submitted,

MEGAN R. CROUCH, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

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 Appellate Government Division on 14 August 2023.

Respectfully submitted,

MEGAN R. CROUCH, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

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

UNITED STATES	)	No. ACM _____
<i>Appellee</i>)	
)	
v.)	
	)	NOTICE OF
Tri N.C. HOANG	)	DOCKETING
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>)	

On 14 August 2023, this court received a notice of direct appeal from Appellant in the above-styled case, pursuant to Article 66(b)(1)(A), Uniform Code of Military Justice, 10 U.S.C. § 866(b)(1)(A).

As of the date of this notice, the court has not yet received a record of trial in Appellant's case.

Accordingly, it is by the court on this 4th day of October, 2023,

ORDERED:

The case in the above-styled matter is referred to Panel 3.

It is further ordered:

The Government will forward a copy of the record of trial to the court forthwith.



FOR THE COURT

TANICA S. BAGMON
Appellate Court Paralegal

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION TO ATTACH
<i>Appellee,</i>	)	AND SUSPEND RULE 18
)	
v.)	
	)	Before Panel 1
)	
Airman First Class (E-3)	)	No. ACM _____
TRI N.C. HOANG)	
United States Air Force	)	5 October 2023
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(b) and 23.3(r) of this Honorable Court’s Rules of Practice and Procedure, Airman First Class (A1C) Tri N.C. Hoang (Appellant) hereby moves this Honorable Court to (1) attach the below document to the Record of Trial when the Record of Trial is received by this Court, and (2) suspend its rules in regards to the time for filing a Brief on Behalf of Appellant, JT. CT. CRIM. APP. R. 18, until such a time as the verbatim transcript is produced.

1. Government’s Email to JAT Central Docketing Workflow, dated 16 August 2023, 1 page (Appendix)

On 14 August 2023, Appellant filed a notice of direct appeal. When this case was docketed 51 days later, on 4 October 2023, the Record of Trial had not been provided to the Court. In its order, the Court directed that a copy of the Record of Trial be forwarded to the Court forthwith. However, the order was silent as to any briefing schedule thereafter. Under JT. CT. CRIM. APP. R. 18, Appellant’s assignments of error are due sixty days from when the Record of Trial is “referred” to the Court, but the rule appears not to contemplate direct appeals where a notice of appeal might be filed prior to the Record of Trial reaching the Court.

To the extent that JT. CT. CRIM. APP. R. 18 and this Court’s order could be read to require briefing within sixty days of docketing, the attached email is relevant to the Appellant’s request

that this Honorable Court suspend its rules regarding the time for filing a Brief on Behalf of Appellant. The authenticity of the email should be apparent. The email shows a request from the Government to the Trial Judiciary (JAT) to produce a verbatim transcript in the case. Since the Government has already requested JAT prepare a verbatim transcript, it is unnecessary for Appellant to move this court to order its production. However, Appellant still respectfully requests this Honorable Court suspend Rule 18 until such a time as a verbatim transcript has been produced by the Government.

WHEREFORE, Appellant respectfully requests this Honorable Court grant this Motion to Attach and to Suspend Rule 18. In the alternative, Appellant respectfully requests this Honorable Court amend its 4 October 2023 to clarify the briefing schedule applicable to Appellant's case.

Respectfully submitted,

MEGAN R. CROUCH, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

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 Appellate Government Division on 5 October 2023.

Respectfully submitted,

MEGAN R. CROUCH, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' RESPONSE
<i>Appellee,</i>	)	TO APPELLANT'S MOTION
	)	TO ATTACH AND SUSPEND
v.	)	RULE 18
)	
Airman First Class (E-3)	)	ACM _____
TRI N.C. HOANG, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States responds to Appellant's Motion to Attach and Suspend Rule 18. The United States does not believe that suspension of the rules is necessary at this juncture. Rule 18(d) of the Joint Rules of Appellate Procedure for Courts of Criminal Appeals states, "*Time for Filing and Number of Briefs.* Any brief for an accused shall be filed within 60 days after appellate counsel has been notified that the Judge Advocate General has referred the record to the Court." The Judge Advocate General (TJAG) has not yet referred the record of trial (ROT) to this Court; therefore, Appellant's timeline for filing a brief has yet to begin. There is no rule to suspend.

Rule 3.2 of this Court's Rules of Practice and Procedures states: "The Docket. (a) The Clerk of the Court or designee shall maintain: (1) a regular case docket for cases referred to the Court by TJAG under Articles 66 and 69, UCMJ, and cases returned to the Court under Article 67(e), UCMJ." Although Appellant's case is eligible for Article 66 review, and he has requested Article 66 review, TJAG has not yet referred the completed ROT to the Court under Article 66. So this Court's own rules do not contemplate that a case be considered to be on the docket before TJAG has forwarded the ROT to this Court. As Appellant notes, a verbatim transcript is currently

being prepared. When the verbatim transcript is completed,¹ the entire, complete ROT will be forwarded to the Court.

The United States respectfully requests that this Court not set a particular due date for forwarding of the ROT. This Court does not set deadlines, require appellate filings, or otherwise monitor the production and forwarding of ROTs in automatic review cases. It should not do so for direct appeal cases either. According to Department of the Air Force Instruction (DAFI) 51-201, para. 1.6.2.5, “JAJM is responsible for ROTs for all DAF courts-martial.” Per DAF 51-201, paras. 1.8 and 1.7.4, court reporters “records, transcribes, and assembles records for Article 30a, pre-referral judicial proceedings, courts-martial, and other proceedings, as required, in accordance with the MCM, UCMJ, and DAFMAN 51-203,” and the “Court Reporter Manager” is “responsible for the centralized management and detailing of all court-reporting and transcription taskings.” The Trial Judiciary (JAT) also is “[r]esponsible for the centralized management of the court reporter program and serves as the single point of contact for all requests for transcription assistance and court reporter temporary duty support.” DAFI 51-201, para 1.7. In sum, the Air Force already has ample procedures in place for the production of ROTs for forwarding.

¹ Based on conversations between JAJA and JAJG, both parties agree that a verbatim transcript is necessary for meaningful and timely Article 66 review. JAJA needs to see a full transcript to be able to identify and raise issues, and JAJG will need to see a full transcript to be able to respond accordingly. Listening to the audio recording of the entire proceeding would be too time consuming for both sides. Also, providing JAJA with a “means to transform the recording into a text format through voice recognition software or similar means” as mentioned in R.C.M. 1116(b)(1)(A)(i) is not a viable solution at this point. No software that identifies the individual speakers on a recording is known to exist, so JAJA would still have to listen to much, if not all, of the audio recording, to know who is speaking. This would be incredibly time consuming for attorneys who have no training in transcription. JAJG would also have to use the same software and face the same hurdles in order to be able to respond to JAJA’s brief. Further, it would likely take over a year to get new software approved and to be functional, based on JAJG’s past experience of trying to purchase and use other software.

When this Court sets deadlines for the forwarding of ROTs or verbatim transcripts and requires updates from the government, it creates significant new burdens for JAJG, which must now monitor the production of ROTs, track more deadlines, communicate all deadlines to court reporters, track the court reporters' progress, coordinate regarding any sealed portions of the transcript, and continually file updates or motions for enlargements of time for the production of ROTs. Other than making filings with the Court, these are functions that have already been designated to JAJM and/or JAT and the court reporters by DAFI 51-201. Making things even more difficult, JAJG has no authority over JAT and the court reporters.

The increased workload of having to manage the production of ROTs for direct appeal cases is proving untenable for JAJG. In recent years, JAJG has lost a full-time appellate deputy and now has only 4 active duty counsel (and a remote reservist on a 365-MPA tour) to write briefs. All but one of these attorneys is new to JAJG as of this summer. Simultaneously, JAJG is dealing with an increased workload involving at least 8 upcoming CAAF cases, 2 AFCCA oral arguments, and an increased number of victim petitions under Article 6b. Also, JAJG's Chief and Director of Operations will both be required to travel extensively in October and November 2023 to brief bases regarding the rollout of the Office of Special Trial Counsel.

The United States believes that it is unnecessary for this Court to monitor direct appeal cases before the ROTs are forwarded to the Court. The government writ large understands the requirement to provide appellate defense counsel and this Court with a ROT and is working to comply as quickly as it can in all direct appeal cases. Should Appellant believe forwarding of the ROT has taken too long, he can file for relief for post-trial delay in his assignments of error brief. But the United States does not believe that this Court's involvement pre-forwarding will make the process work any faster. Instead, it will only generate more filing requirements for JAJG and JAJA.

It will take time away from other endeavors, such as writing, editing, and reviewing briefs and pleadings and will make it more difficult to provide timely and high-quality work product that is helpful to this Court. The most workable solution is for this Court to follow the letter of Rule 18, wait for TJAG to forward a completed ROT to the Court, and then, upon receipt of the ROT, start the clock for Appellant to file a brief.

WHEREFORE, the United States respectfully requests that this Court find that suspension of this Court's rules is not necessary until a ROT has been forwarded to the Court.

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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 12 October 2023.

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

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

UNITED STATES	)	No. _____
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Tri N.C. HOANG)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 3

On 4 October 2023, the court gave notice to Appellant and Appellee that the court was in receipt of a notice of direct appeal from Appellant pursuant to Article 66(b)(1)(A), Uniform Code of Military Justice, 10 U.S.C. § 866(b)(1)(A), and that it had not yet received a record of trial in Appellant’s case. The court instead ordered that the Government “forward a copy of the record of trial to the court forthwith.”

On 5 October 2023, Appellant moved to attach an email to present to this court that the Government requested the Air Force Trial Judiciary produce a verbatim transcript in his case. Appellant further requested that this court suspend Rule 18 until such time a verbatim transcript has been produced by the Government.* *See* JT. CT. CRIM. APP. R. 18. On 12 October 2023, the Government responded, opposing the motion.

In consideration of the foregoing, and the Government’s opposition, the court denies the Appellant’s Motion to Attach and Suspend Rule 18. Rule 18 states in relevant part, “Any brief for an accused shall be filed within 60 days after appellate counsel has been notified that the Judge Advocate General has referred the record to the Court.” Here, Appellant does not assert that he has been notified that the Judge Advocate General has referred the record to the court. The court has also not yet received the record of trial. Once that notification has occurred and the time for filing a brief begins to run, if Appellant believes that additional time is needed, he may then file for an enlargement of time or seek other appropriate relief as articulated in this court’s Rules of Practice and Procedure, and applicable law.

Accordingly, it is by the court on this 19th day of October 2023,

* Counsel are reminded that motions to suspend and motions to attach should be filed as separate motions, not a single motion pursuant to Rule 23.1 of this court’s rules.

ORDERED:

Appellant's Motion to Attach and Suspend Rule 18 is **DENIED**.



FOR THE COURT

CAROL K. JOYCE
Clerk of the Court

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

UNITED STATES	)	No. ACM _____
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Tri N.C. HOANG)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 3

On 14 August 2023, Appellant filed a “Notice of Direct Appeal Pursuant to Article 66(b)(1)(A), UCMJ,” with this court. The above-styled case was docketed on 4 October 2023 and the court ordered the Government to “forward a copy of the record of trial to the court forthwith.” Over 120 days have elapsed and, to date, the record has not been provided to the court.

Accordingly, it is by the court on this 5th day of February, 2024,

ORDERED:

Government appellate counsel will inform the court in writing not later than **29 February 2024** of the status of this case with regard to this court’s 4 October 2023 order.



FOR THE COURT

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	NOTICE OF APPEARANCE
<i>Appellee,</i>)	
)	
v.	)	Before Panel No. 3
)	
Airman First Class (E-3))	
TRI N.C. HOANG,	)	No. ACM 22082
United States Air Force,)	
<i>Appellant.</i>	)	20 April 2024

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

COMES NOW the undersigned counsel, pursuant to Rule 13 of this Honorable Court's Rules of Practice and Procedure, and enters an appearance as counsel for Appellant.

Respectfully submitted,

REBECCA J. SAATHOFF, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 20 April 2024.

REBECCA J. SAATHOFF, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	MOTION FOR WITHDRAWAL OF
<i>Appellee,</i>	)	APPELLATE DEFENSE COUNSEL
)	
v.	)	Before Panel No. 3
)	
Airman First Class (E-3)	)	No. ACM 22082
TRI N.C. HOANG)	
United States Air Force,	)	22 April 2024
<i>Appellant.</i>)	

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

Pursuant to Rules 12(b), 12.4, and 23.3(h) of this Honorable Court’s Rules of Practice and Procedure, undersigned counsel respectfully requests to withdraw as counsel in the above-captioned case. Maj Rebecca Saathoff has been detailed substitute counsel in undersigned counsel’s stead and made her notice of appearance on 20 April 2024. A thorough turnover of the record between counsel has been completed. Maj Crouch is expected to be out of the office for approximately five months beginning 2024 and her continued representation of Appellant would only delay his appellate review.

Appellant has been advised of this motion to withdraw as counsel and consents to undersigned counsel’s withdrawal. A copy of this motion will be delivered to Appellant following its filing.

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

Respectfully submitted,

MEGAN R. CROUCH, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

CERTIFICATE OF FILING AND SERVICE

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

Respectfully submitted,

MEGAN R. CROUCH, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FIRST)
)	
v.	)	Before Panel No. 3
)	
Airman First Class (E-3))	
TRI N.C. HOANG,	)	No. ACM 22082
United States Air Force,)	
<i>Appellant.</i>	)	29 April 2024

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

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court’s Rules of Practice and Procedure, Airman First Class Tri N.C. Hoang (Appellant) hereby moves for an enlargement of time (EOT) to file Assignments of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **9 July 2024**. This case is a direct appeal that was docketed with this Court on 4 October 2023. This Court received the record of trial (ROT) with verbatim transcript on 11 March 2024. From the date of docketing to the present date, 207 days have elapsed. On the date requested, 282 days will have elapsed. From the date this Court received the ROT until the present date, 49 days have elapsed. On the date requested, 120 days will have elapsed.

Appellate counsel is currently assigned 4 cases, all of which are pending initial AOE’s before this Court. Counsel is a Reservist and has a full-time civilian job in the private sector serving clients. Through no fault of Appellant, Counsel has been working on other assigned matters and has not yet started her review of Appellant’s case. Counsel has Inactive Duty Training (IDT) days scheduled in _____ and _____ to work on cases. Appellant is aware of his right to speedy appellate review, extensions of time, and consents to this extension of time. Appellant

has been provided an update on Counsel's progress in his case. Two Air Force Court cases have priority over the present case:

1. *United States v. Cunningham*, No. ACM 23010 – The ROT for this case consists of 2 volumes, 14 prosecution exhibits, 4 defense exhibits, 11 appellate exhibits, and zero court exhibits. The trial transcript is 149 pages long. SrA Cunningham's AOE is currently due on 22 May XXX 2024. Counsel has completed her review of the case and is working on effectuating the client's decisions in the case.

2. *United States v. Dolehanty*, No. ACM 40510 – The ROT for this case consists of four volumes, seven prosecution exhibits, one defense exhibit, and nine appellate exhibits. The trial transcript is 248 pages. Capt Dolehanty's AOE is currently due on 26 May 2024. Counsel has begun her review of the case.

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

Respectfully submitted,

REBECCA J. SAATHOFF, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

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 29 April 2024.

REBECCA J. SAATHOFF, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

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 (FIRST)
)	
Airman First Class (E-3)	)	ACM 22082
TRI N.C.HOANG, USAF,)	
United States Air Force)	
<i>Appellant.</i>	)	Panel No. 3

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

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

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

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

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 1 May 2024.

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

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

UNITED STATES	)	No. ACM 22082
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Tri N.C. HOANG)	
Airman First Class (E-3))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 3

On 4 October 2023, Appellant filed with this court a notice of direct appeal pursuant to Article 66(b)(1)(A), Uniform Code of Military Justice, 10 U.S.C. § 866(b)(1)(A). While Appellant’s filing was not accompanied by a record of trial, the court docketed Appellant’s case the same day. In this court’s notice of docketing, it further ordered the Government to “forward a copy of the record of trial to the court forthwith.”

On 11 March 2024, the Government forwarded the completed record of trial to this court and Appellant’s counsel.

On 29 April 2024 (49 days after Appellant’s counsel received the completed record of trial), 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, case law, and this court’s Rules of Practice and Procedure.

Accordingly, it is by the court on this 3d day of May, 2024,

ORDERED:

Appellant’s Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error not later than **9 July 2024**.

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 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.

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



FOR THE COURT

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	MOTION TO WITHDRAW FROM
<i>Appellee,</i>	)	APPELLATE REVIEW AND ATTACH
)	
v.	)	Before Panel No. 3
)	
Airman First Class (E-3))	
TRI N.C. HOANG,	)	No. ACM 22082
United States Air Force,)	
<i>Appellant.</i>	)	22 June 2024

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

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

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

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

Respectfully submitted,

REBECCA J. SAATHOFF, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604

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 Division on 22 June 2024.

REBECCA J. SAATHOFF, Maj, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division
1500 West Perimeter Road, Suite 1100
Joint Base Andrews NAF, MD 20762-6604