

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS



UNITED STATES	)	<b>MOTION FOR ENLARGEMENT OF</b>
	)	<b>TIME (FIRST)</b>
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40414
<b>BLAKE R. MCCARTNEY,</b>	)	
United States Air Force	)	31 March 2023
	)	
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(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 **8 June 2023**. The record of trial was docketed with this Court on 8 February 2023. From the date of docketing to the present date, 51 days have elapsed. On the date requested, 120 days will have elapsed.

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

Respectfully submitted,

  
KASEY W. HAWKINS, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  


**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 31 March 2023.

Respectfully submitted,

[REDACTED]

KASEY W. HAWKINS, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

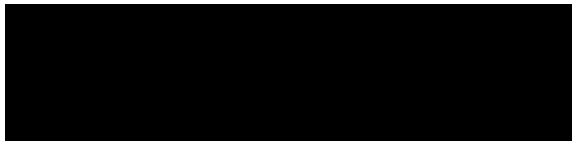
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Technical Sergeant (E-6)	)	ACM 40414
BLAKE R. MCCARTNEY, USAF,	)	
<i>Appellant.</i>	)	Panel No. 2
	)	

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

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

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

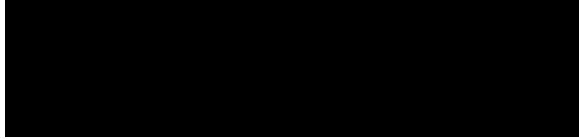


MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



**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 April 2023.



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



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (SECOND)</b>
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40414
<b>BLAKE R. MCCARTNEY,</b>	)	
United States Air Force	)	1 June 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **8 July 2023**. The record of trial was docketed with this Court on 8 February 2023. From the date of docketing to the present date, 113 days have elapsed. On the date requested, 150 days will have elapsed.

On 3 October 2022, Appellant was tried by a general court-martial at Wright-Patterson Air Force Base, Ohio. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with one specification of possession of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 12, 58; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 15 Nov. 2022. The military judge sentenced Appellant to be reduced to the grade of E-1, to be confined for 24 months, and to be discharged from the service with a band conduct discharge. R. at 122; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. TSgt Blake R. McCartney*, dated 24 Oct. 2022.

The record of trial is four volumes consisting of 21 prosecution exhibits, seven defense exhibits, and three appellate exhibits; the transcript is 123 pages. Appellant is currently confined.

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

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

Respectfully submitted,

[REDACTED]


KASEY W. HAWKINS, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[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 Appellate Government Division on 1 June 2023.

Respectfully submitted,

  
KASEY W. HAWKINS, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division



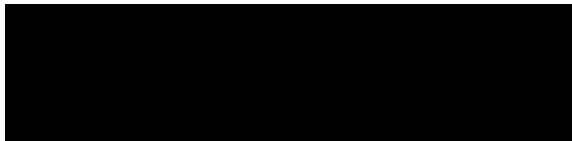
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Technical Sergeant (E-6)	)	ACM 40414
BLAKE R. MCCARTNEY, USAF,	)	
<i>Appellant.</i>	)	Panel No. 2
	)	

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

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

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



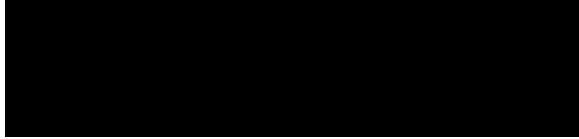
MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force





**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 June 2023.



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



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (THIRD)</b>
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40414
<b>BLAKE R. MCCARTNEY,</b>	)	
United States Air Force	)	29 June 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **7 August 2023**. The record of trial was docketed with this Court on 8 February 2023. From the date of docketing to the present date, 141 days have elapsed. On the date requested, 180 days will have elapsed.

On 3 October 2022, Appellant was tried by a general court-martial at Wright-Patterson Air Force Base, Ohio. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with one specification of possession of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 12, 58; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 15 Nov. 2022. The military judge sentenced Appellant to be reduced to the grade of E-1, to be confined for 24 months, and to be discharged from the service with a bad conduct discharge. R. at 122; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. TSgt Blake R. McCartney*, dated 24 Oct. 2022.

The record of trial is four volumes consisting of 21 prosecution exhibits, seven defense exhibits, and three appellate exhibits; the transcript is 123 pages. Appellant is currently confined.

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

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

Respectfully submitted,

[Redacted]  
KASEY W. HAWKINS, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division  
[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 Appellate Government Division on 29 June 2023.

Respectfully submitted,

[REDACTED]

KASEY W. HAWKINS, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

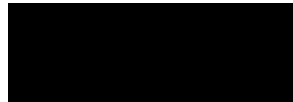
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Technical Sergeant (E-6)	)	ACM 40414
BLAKE R. MCCARTNEY, 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.



OLIVIA B. HOFF, Capt, USAF  
Appellate Government Counsel  
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 30 June 2023.



OLIVIA B. HOFF, Capt, USAF  
Appellate Government Counsel  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (FOURTH)</b>
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40414
<b>BLAKE R. MCCARTNEY,</b>	)	
United States Air Force	)	27 July 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **6 September 2023**. The record of trial was docketed with this Court on 8 February 2023. From the date of docketing to the present date, 169 days have elapsed. On the date requested, 210 days will have elapsed.

On 3 October 2022, Appellant was tried by a general court-martial at Wright-Patterson Air Force Base, Ohio. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with one specification of possession of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 12, 58; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 15 Nov. 2022. The military judge sentenced Appellant to be reduced to the grade of E-1, to be confined for 24 months, and to be discharged from the service with a bad conduct discharge. R. at 122; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. TSgt Blake R. McCartney*, dated 24 October 2022.

The record of trial is four volumes consisting of 21 prosecution exhibits, seven defense exhibits, and three appellate exhibits; the transcript is 123 pages. Appellant is currently confined.

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

The undersigned counsel's first full day in the office was 17 July 2023 and counsel has approved leave from 27 July 2023 through 30 July 2023. The previously assigned counsel is transitioning out of the Appellate Defense Division and the undersigned counsel was assigned this case on 25 July 2023. Pursuant to A.F. CT. CRIM. APP. R. 23.3(m)(6), undersigned counsel provides that she represents 21 clients and is presently assigned 11 cases pending brief before this Court. This case is counsel's sixth priority case, behind:

1. *United States v. McAlhane*, No. ACM 39979 (rem). The appellant's petition for grant of review is due to the Court of Appeals for the Armed Forces (CAAF) on 21 August 2023.
2. *United States v. Doroteo*, No. ACM 40363. The trial transcript is 2,149 pages long and the record of trial is comprised of 14 volumes containing 19 prosecution exhibits, three defense exhibits, 151 appellate exhibits, and two court exhibits. Counsel is reviewing the record of trial.
3. *United States v. Csiti*, No. ACM 40386. The trial transcript is 633 pages long, and the record of trial is comprised of seven volumes containing nine prosecution exhibits, 10 defense exhibits, 33 appellate exhibits, and one court exhibit. Counsel has not yet begun her review of the record of trial.



4. *United States v. Akaka*, No. ACM S32744. The trial transcript is 181 pages long, and the record of trial is comprised of three volumes containing three prosecution exhibits, nine defense exhibits, six appellate exhibits, and two court exhibits.
5. *United States v. Byrne*, No. ACM 40391. The trial transcript is 945 pages long and the record of trial is comprised of eight volumes consisting of five prosecution exhibits, six defense exhibits, 74 appellate exhibits, and one court exhibit.

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

Respectfully submitted,

[REDACTED]

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[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 Appellate Government Division on 27 July 2023.

Respectfully submitted,

[REDACTED]

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

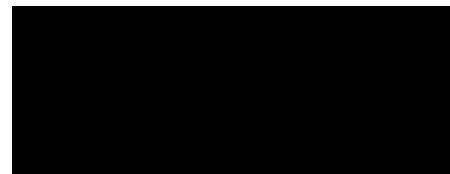
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Technical Sergeant (E-6)	)	ACM 40414
BLAKE R. MCCARTNEY, 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.



THOMAS J. ALFORD, Lt Col, USAFR  
Appellate Government Counsel, Government  
Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

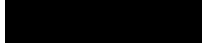


**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force  
Appellate Defense Division on 28 July 2023.



THOMAS J. ALFORD, Lt Col, USAFR  
Appellate Government Counsel, Government  
Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (FIFTH)</b>
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40414
<b>BLAKE R. MCCARTNEY,</b>	)	
United States Air Force	)	25 August 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **6 October 2023**. The record of trial was docketed with this Court on 8 February 2023. From the date of docketing to the present date, 198 days have elapsed. On the date requested, 240 days will have elapsed.

On 3 October 2022, Appellant was tried by a general court-martial at Wright-Patterson Air Force Base, Ohio. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with one specification of possession of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 12, 58; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 15 Nov. 2022. The military judge sentenced Appellant to be reduced to the grade of E-1, to be confined for 24 months, and to be discharged from the service with a bad conduct discharge. R. at 122; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. TSgt Blake R. McCartney*, dated 24 October 2022.

The record of trial is four volumes consisting of 21 prosecution exhibits, seven defense exhibits, and three appellate exhibits; the transcript is 123 pages. Appellant is currently confined.

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

Pursuant to A.F. CT. CRIM. APP. R. 23.3(m)(6), undersigned counsel provides that she represents 16 clients and is presently assigned 10 cases pending brief before this Court. This case is counsel's sixth priority case, behind:

1. *United States v. Falls Down*, No. ACM 40268. The appellant's petition for grant of review is due to the Court of Appeals for the Armed Forces (CAAF) on 2 October 2023.
2. *United States v. Doroteo*, No. ACM 40363. The trial transcript is 2,149 pages long and the record of trial is comprised of 14 volumes containing 19 prosecution exhibits, three defense exhibits, 151 appellate exhibits, and two court exhibits. Counsel is reviewing the record of trial.
3. *United States v. Csiti*, No. ACM 40386. The trial transcript is 633 pages long, and the record of trial is comprised of seven volumes containing nine prosecution exhibits, 10 defense exhibits, 33 appellate exhibits, and one court exhibit. Counsel has not yet begun her review of the record of trial.
4. *United States v. Akaka*, No. ACM S32744. The trial transcript is 181 pages long, and the record of trial is comprised of three volumes containing three prosecution exhibits, nine defense exhibits, six appellate exhibits, and two court exhibits.

5. *United States v. Byrne*, No. ACM 40391. The trial transcript is 945 pages long and the record of trial is comprised of eight volumes consisting of five prosecution exhibits, six defense exhibits, 74 appellate exhibits, and one court exhibit.

Since Appellant's last request for an enlargement of time, undersigned counsel has filed one petition for reconsideration in *United States v. Alton* (Dkt. No. 23-0174/AF, No. ACM 40215) and one supplement to petition for grant of review in *United States v. McAlhaney* (USCA Dkt. No. 23-0234/AF, No. ACM 39979 (rem)), both before the United States Court of Appeals for the Armed Forces (C.A.A.F.). Counsel also reviewed two records of trial and advised the members regarding their opportunity to appeal directly to the Air Force Court of Criminal Appeals. Additionally, she was also out of the office for five duty days (attending a two-day Newcomers Training; attending the Joint Appellate Advocacy Training; and taking leave for one day).

The Judge Advocate General has reassigned Appellant's previous counsel, Major Kasey Hawkins, from the Air Force Appellate Defense Division to the Air Force Military Justice Law and Policy Division. The previous counsel's Motion for Withdrawal of Appellate Defense Counsel is forthcoming.

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

Respectfully submitted,



MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division



**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 25 August 2023.

Respectfully submitted,

[REDACTED]

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]



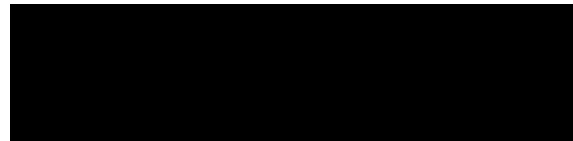
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Technical Sergeant (E-6)	)	ACM 40414
BLAKE R. MCCARTNEY, USAF,	)	
<i>Appellant.</i>	)	Panel No. 2
	)	

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

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

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

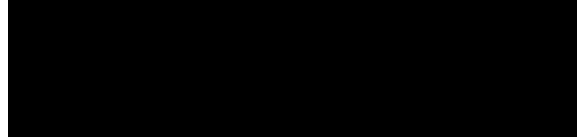


MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force  
Appellate Defense Division on 28 August 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 <i>Appellee</i>	)	No. ACM 40414
	)	
v.	)	
	)	<b>ORDER</b>
Blake R. MCCARTNEY Technical Sergeant (E-6) U.S. Air Force <i>Appellant</i>	)	
	)	<b>Panel 2</b>

On 25 August 2023, counsel for Appellant submitted a Motion for Enlargement of Time (Fifth) requesting an additional 30 days to submit Appellant's assignments of error. The Government opposes the motion.

The court has considered Appellant's motion, the Government's opposition, case law, and this court's Rules of Practice and Procedure. Accordingly, it is by the court on this 30th day of August, 2023,

**ORDERED:**

Appellant's Motion for Enlargement of Time (Fifth) is **GRANTED**. Appellant shall file any assignments of error not later than 6 October 2023.

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



FOR THE COURT

A redacted signature in blue ink, consisting of a black rectangular box covering the name.

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

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

<b>UNITED STATES,</b>	)	<b>MOTION FOR WITHDRAWAL OF</b>
<i>Appellee,</i>	)	<b>APPELLATE DEFENSE COUNSEL</b>
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6),	)	No. ACM 40414
<b>BLAKE R. MCCARTNEY,</b>	)	
United States Air Force,	)	25 August 2023
<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. The Judge Advocate General has reassigned undersigned counsel from the Air Force Appellate Defense Division to the Air Force Military Justice Law and Policy Division. Accordingly, undersigned counsel is no longer detailed under Article 70, Uniform Code of Military Justice (UCMJ) to represent Appellant. Major Megan Crouch has been detailed substitute appellate military counsel in undersigned counsel’s stead and made her notice of appearance on 27 July 2023. Counsel have completed a thorough turnover of the record.

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,

  
KASEY W. HAWKINS, Maj, USAF  
Chief, Military Justice Policy  
Military Justice Law & Policy Division (JAJM)



**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 25 August 2023.

[REDACTED]

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

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

<b>UNITED STATES</b>	)	<b>No. ACM 40414</b>
<i>Appellee</i>	)	
	)	
<b>v.</b>	)	
	)	<b>ORDER</b>
<b>Blake R. MCCARTNEY</b>	)	
<b>Technical Sergeant (E-6)</b>	)	
<b>U.S. Air Force</b>	)	
<i>Appellant</i>	)	<b>Panel 2</b>

On 25 August 2023, Appellant’s detailed appellate defense counsel submitted a Motion for Withdrawal of Appellate Defense Counsel. The Government did not submit any opposition.

Detailed appellate defense counsel provided the court with the necessary information required under Rule 12(b) of the Joint Rules of Appellate Procedure for Courts of Criminal Appeals, specifically: (1) Appellant consents to withdrawal of his detailed appellate defense counsel; (2) detailed appellate defense counsel’s reason for withdrawal is because she has been reassigned “from the Air Force Appellate Defense Division to the Air Force Military Justice Law and Policy Division;” and (3) provisions have been made for continued representation in that a new appellate defense counsel has been detailed to Appellant’s case. JT. CT. CRIM. APP. R. 12(b).

However, the motion contains one erroneous proposition of law that requires comment and correction, to wit: that in light of detailed appellate defense counsel’s reassignment, “undersigned counsel is *no longer detailed* under Article 70, Uniform Code of Military Justice (UCMJ)[10 U.S.C. § 870, UCMJ] to represent Appellant.” (Emphasis added).

Once detailed as appellate defense counsel and after forming an attorney-client relationship with Appellant, counsel remain detailed to that case unless and until the court grants that counsel leave to withdraw. In repeated decisions by our superior court, “the responsibility for appointing appellate counsel rest[s] with the Judge Advocate General [TJAG] under Article 70, UCMJ, but that the authority to control the case rest[s] with the [service Courts of

Criminal Appeals].” *United States v. Roach*, 66 M.J. 410, 413 (C.A.A.F. 2008) (citing *United States v. Bell*, 29 C.M.R. 122, 125 (C.M.A. 1960)).<sup>1</sup>

Despite the misstatement that reassignment *automatically* severed both her detailing under Article 70, UCMJ, and by extension, her established attorney-client relationship with Appellant for a case still undergoing direct appellate review, the remainder of the motion is in proper form and provides the necessary good cause for withdrawal of counsel.

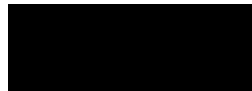
Accordingly, it is by the court on this 11th day of September, 2023,

**ORDERED:**

Appellant’s Motion for Withdrawal of Appellate Defense Counsel in the above captioned case is **GRANTED**.<sup>2</sup>



FOR THE COURT



CAROL K. JOYCE  
Clerk of the Court

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<sup>1</sup> See also *Lovett v. United States*, 63 M.J. 232, 232–33 (C.A.A.F. 2006) (granting a writ of mandamus to require TJAG to appoint appellate defense counsel where appellate defense counsel wrongly *sua sponte* severed their attorney-client relationship with Appellant prior to the case becoming final under Article 76, UCMJ:

The immediate question before us is not whether counsel must file any particular matter in the course of representing a servicemember, but whether counsel may discontinue such representation before the case is final as a matter of law. Nothing in the record of the present case established a basis for counsel to sever the lawyer-client relationship.

<sup>2</sup> The court notes that the Article 70, UCMJ, reference is ubiquitous in several recent motions to withdraw as appellate defense counsel filed by members of the Air Force Appellate Defense Division. The court urges counsel to carefully review the statute and caselaw cited in this order and to correct any future filings on this subject.



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF TIME (SIXTH)</b>
<i>Appellee</i>	)	
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40414
<b>BLAKE R. MCCARTNEY,</b>	)	
United States Air Force	)	28 September 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **5 November 2023**. The record of trial was docketed with this Court on 8 February 2023. From the date of docketing to the present date, 232 days have elapsed. On the date requested, 270 days will have elapsed.

On 3 October 2022, Appellant was tried by a general court-martial at Wright-Patterson Air Force Base, Ohio. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with one specification of possession of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 12, 58; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 15 Nov. 2022. The military judge sentenced Appellant to be reduced to the grade of E-1, to be confined for 24 months, and to be discharged from the service with a bad conduct discharge. R. at 122; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. TSgt Blake R. McCartney*, dated 24 October 2022.

The record of trial is four volumes consisting of 21 prosecution exhibits, seven defense exhibits, and three appellate exhibits; the transcript is 123 pages. Appellant is currently confined.

Pursuant to A.F. CT. CRIM. APP. R. 23.3(m)(6), undersigned counsel provides that she represents 19 clients and is presently assigned 10 cases pending brief before this Court. This case is counsel's fourth priority case, behind:

1. *United States v. Doroteo*, No. ACM 40363. The trial transcript is 2,149 pages long and the record of trial is comprised of 14 volumes containing 19 prosecution exhibits, three defense exhibits, 151 appellate exhibits, and two court exhibits.
2. *United States v. Csiti*, No. ACM 40386. The trial transcript is 633 pages long, and the record of trial is comprised of seven volumes containing nine prosecution exhibits, 10 defense exhibits, 33 appellate exhibits, and one court exhibit.
3. *United States v. Byrne*, No. ACM 40391. The trial transcript is 945 pages long and the record of trial is comprised of eight volumes consisting of five prosecution exhibits, six defense exhibits, 74 appellate exhibits, and one court exhibit.

Since Appellant's last request for an enlargement of time, undersigned counsel has filed one supplement to petition for grant of review in *United States v. Falls Down* (No. ACM 40268) before the United States Court of Appeals for the Armed Forces (C.A.A.F.). Counsel also advised one member regarding his opportunity to appeal directly to the Air Force Court of Criminal Appeals. Additionally, she was also out of the office on leave for two duty days.

Through no fault of Appellant, undersigned counsel has yet to complete her review of Appellant's case. This enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was informed

of his right to a timely appeal and this request for an enlargement of time, and Appellant agrees with this request for an enlargement of time.

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

Respectfully submitted,

A solid black rectangular redaction box covering the signature of the appellant.

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

A large, irregular black redaction box covering the contact information, including address and phone number.

**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 28 September 2023.

Respectfully submitted,

[REDACTED]

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

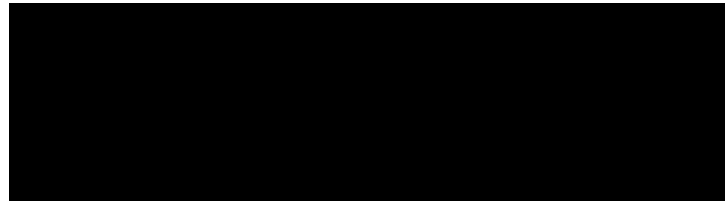
**IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS**

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
	)	
Technical Sergeant (E-6)	)	ACM 40414
BLAKE R. MCCARTNEY, 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.

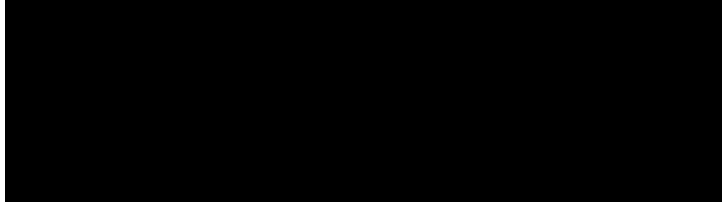


PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force



**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 2 October 2023.



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



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (SEVENTH)</b>
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40414
<b>BLAKE R. MCCARTNEY,</b>	)	
United States Air Force	)	23 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(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **5 December 2023**. The record of trial was docketed with this Court on 8 February 2023. From the date of docketing to the present date, 257 days have elapsed. On the date requested, 300 days will have elapsed.

On 3 October 2022, Appellant was tried by a general court-martial at Wright-Patterson Air Force Base, Ohio. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with one specification of possession of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 12, 58; Entry of Judgment (EOJ), dated 15 November 2022. The military judge sentenced Appellant to be reduced to the grade of E-1, to be confined for 24 months, and to be discharged from the service with a bad conduct discharge. R. at 122; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. TSgt Blake R. McCartney*, dated 24 October 2022.

The record of trial is 4 volumes consisting of 21 prosecution exhibits, 7 defense exhibits, and 3 appellate exhibits; the transcript is 123 pages. Appellant is no longer in confinement.

Undersigned counsel currently represents 19 clients and is presently assigned 10 cases pending brief before this Court. This case is counsel's fifth priority case, behind:

1. *United States v. Davis*, No. ACM 40370. The record of trial is comprised of 11 volumes containing 40 prosecution exhibits, 20 defense exhibits, 69 appellate exhibits, and 1 court exhibit; the transcript is 1258 pages. Undersigned counsel has completed her review of the transcript and record of trial and is preparing to travel for and give oral argument on 15 November 2023.
2. *United States v. Doroteo*, No. ACM 40363. The trial transcript is 2,149 pages long and the record of trial is comprised of 14 volumes containing 19 prosecution exhibits, 3 defense exhibits, 151 appellate exhibits, and 2 court exhibits. Undersigned counsel has completed her review of the transcript.
3. *United States v. Csiti*, No. ACM 40386. The trial transcript is 633 pages long, and the record of trial is comprised of 7 volumes containing 9 prosecution exhibits, 10 defense exhibits, 33 appellate exhibits, and 1 court exhibit. Undersigned counsel has completed her review of the record of trial.
4. *United States v. Byrne*, No. ACM 40391. The trial transcript is 945 pages long and the record of trial is comprised of 8 volumes consisting of 5 prosecution exhibits, 6 defense exhibits, 74 appellate exhibits, and 1 court exhibit. Counsel has not reviewed the record of trial.

Since Appellant's last request for an enlargement of time, undersigned counsel completed a review of the transcript for *United States v. Doroteo* (No. ACM 40363). On 2 October 2023,



undersigned counsel was detailed to represent SrA Tyrion Davis at this Court's ordered oral argument (*United States v. Davis*, No. ACM 40370). She was not the original counsel who prepared the written briefs, nor had she reviewed the record of trial or the written filings prior to being detailed to represent SrA Davis. On 5 October 2023, this Court notified the parties for *United States v. Davis* that the oral argument would take place on 15 November 2023. As a result, undersigned counsel shifted *United States v. Davis* to her number one priority case and moved *United States v. Doroteo* to her number two priority case. Counsel completed her review of the unsealed transcript, record of trial, and written filings for *United States v. Davis* on 17 October 2023. She also prepared for, and participated in, two moot oral arguments for JAJA colleagues (*United States v. Driskill* and *United States v. Rocha*) and advised one member regarding his opportunity to appeal directly to the Air Force Court of Criminal Appeals.

On 18 October 2023, undersigned counsel began reviewing the transcript for *United States v. Csiti* (No. ACM 40386). Counsel is scheduled to attend the University of North Carolina (UNC) Appellate Advocacy Training in Chapel Hill, NC, from 25-27 October 2023. Counsel registered for this training on 22 August 2023, and as part of her registration, submitted to the UNC School of Government that she would use *United States v. Csiti* as her case for training. This case provides undersigned counsel the best opportunity to learn at the UNC Training because as sole counsel in this case, she has the greatest latitude to explore and raise issues for the Appellant. Counsel will finish her review of the transcript and record of trial, to include sealed materials, prior to the start of the UNC Training.

Additionally, during counsel's requested enlargement of time, she will attend the Appellate Judges Education Institute 2023 Summit from 2-5 November 2023. She has two moot oral arguments scheduled for *United States v. Davis* on 1 November 2023 and 9 November 2023. There

is a federal holiday (Veterans Day) on 10 November 2023 and a family day for AF/JA on 13 November 2023. Undersigned counsel will be in Chicago, IL, from 13-15 November 2023 to represent SrA Davis at oral argument before this Court. Finally, counsel is scheduled to take leave from 28-30 October 2023 to attend an out-of-state funeral for a family member.

Through no fault of Appellant, undersigned counsel has yet to complete her review of Appellant's case. This enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was informed of his right to a timely appeal and this request for an enlargement of time, and Appellant agrees with this request for an enlargement of time.

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

Respectfully submitted,



MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division



**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 23 October 2023.

Respectfully submitted,

[REDACTED]

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

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

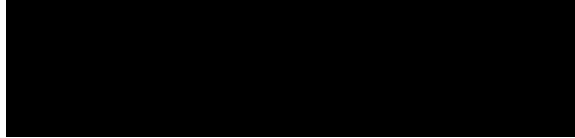
UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION
	)	FOR ENLARGEMENT OF TIME
v.	)	
	)	
Technical Sergeant (E-6)	)	ACM 40414
BLAKE R. MCCARTNEY, USAF,	)	
<i>Appellant.</i>	)	Panel No. 2
	)	

**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 opposition to Appellant's Motion for Enlargement of Time.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 300 days in length. Appellant's nearly year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 8 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not completed review of the record of trial at this late stage of the appellate process.

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

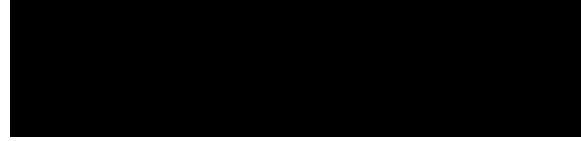


MARY ELLEN PAYNE  
Associate Chief, Government Trial and  
Appellate Operations Division  
Military Justice and Discipline  
United States Air Force



**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 24 October 2023.



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



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (EIGHTH)</b>
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40414
<b>BLAKE R. MCCARTNEY,</b>	)	
United States Air Force	)	21 November 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **4 January 2024**. The record of trial was docketed with this Court on 8 February 2023. From the date of docketing to the present date, 286 days have elapsed. On the date requested, 330 days will have elapsed.

On 3 October 2022, Appellant was tried by a general court-martial at Wright-Patterson Air Force Base, Ohio. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with one specification of possession of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 12, 58; Entry of Judgment (EOJ), dated 15 November 2022. The military judge sentenced Appellant to be reduced to the grade of E-1, to be confined for 24 months, and to be discharged from the service with a bad conduct discharge. R. at 122; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. TSgt Blake R. McCartney*, dated 24 October 2022.

The record of trial is 4 volumes consisting of 21 prosecution exhibits, 7 defense exhibits, and 3 appellate exhibits; the transcript is 123 pages. Appellant is not confined.

Undersigned counsel currently represents 22 clients and is presently assigned 15 cases pending brief before this Court. This case is counsel's fifth priority case, behind:

1. *In re Banker*, Misc. Dkt. No. 2022-01. The transcript of the *DuBay* hearing is 311 pages and the record is two volumes. Mr. Banker's writ-appeal petition is due to the Court of Appeals for the Armed Forces (C.A.A.F.) on 14 December 2023. Undersigned counsel was not the original counsel who filed a brief with the Air Force Court of Criminal Appeals, therefore undersigned counsel must review Mr. Banker's *DuBay* hearing transcript and record, as well as previous written filings, prior to filing Mr. Banker's writ-appeal petition with C.A.A.F.
2. *United States v. Doroteo*, No. ACM 40363. The trial transcript is 2,149 pages long and the record of trial is comprised of 14 volumes containing 19 prosecution exhibits, 3 defense exhibits, 151 appellate exhibits, and 2 court exhibits. Undersigned counsel has completed her review of the record of trial.
3. *United States v. Csiti*, No. ACM 40386. The trial transcript is 633 pages long, and the record of trial is comprised of 7 volumes containing 9 prosecution exhibits, 10 defense exhibits, 33 appellate exhibits, and 1 court exhibit. Undersigned counsel has completed her review of the record of trial.
4. *United States v. Byrne*, No. ACM 40391. The trial transcript is 945 pages long and the record of trial is comprised of 8 volumes consisting of 5 prosecution exhibits, 6 defense exhibits, 74 appellate exhibits, and 1 court exhibit. Counsel has not reviewed the record of trial.



Since Appellant's last request for an enlargement of time, undersigned counsel completed her review of the records of trial for *United States v. Doroteo* and *United States v. Csiti*. She attended the University of North Carolina (UNC) Appellate Advocacy Training in Chapel Hill, NC, from 25-27 October 2023. Upon returning from the UNC training, counsel immediately took leave from 28-30 November 2023 to attend an out-of-state funeral for a family member. Counsel then attended the Appellate Judges Education Institute 2023 Summit from 2-5 November 2023. From 6-15 November 2023, counsel prepared for, and participated in, an oral argument ordered by this Court for *United States v. Davis*, No. ACM 40370, in Chicago, IL. Finally, counsel prepared for, and participated in, two moot oral arguments for her colleagues for *United States v. Cole*, USCA Dkt. No. 23-0162/AF, and *In re H.V.Z.*, USCA Dkt. No. 23-0250/AF.

Through no fault of Appellant, undersigned counsel has yet to complete her review of Appellant's case. This enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was informed of his right to a timely appeal and this request for an enlargement of time, and Appellant agrees with this request for an enlargement of time.

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

Respectfully submitted,



MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division



**CERTIFICATE OF FILING AND SERVICE**

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 21 November 2023.

Respectfully submitted,

[REDACTED]

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

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

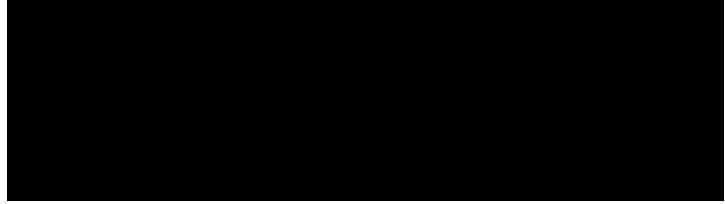
UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION
	)	FOR ENLARGEMENT OF TIME
v.	)	
	)	
Technical Sergeant (E-6)	)	ACM 40414
BLAKE R. MCCARTNEY, USAF,	)	
<i>Appellant.</i>	)	Panel No. 2
	)	

**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 opposition to Appellant's Motion for Enlargement of Time.

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

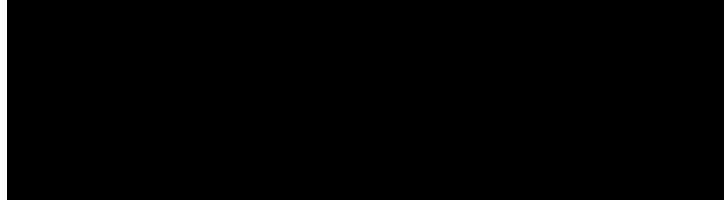


PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force

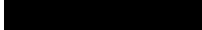


**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was delivered to the Court and to the Air Force  
Appellate Defense Division on 22 November 2023.



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



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

<b>UNITED STATES</b>	)	<b>MOTION FOR ENLARGEMENT OF</b>
<i>Appellee</i>	)	<b>TIME (NINTH)</b>
	)	
v.	)	Before Panel No. 2
	)	
Technical Sergeant (E-6)	)	No. ACM 40414
<b>BLAKE R. MCCARTNEY,</b>	)	
United States Air Force	)	27 December 2023
<i>Appellant</i>	)	

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

Pursuant to Rule 23.3(m)(4) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **3 February 2024**. The record of trial was docketed with this Court on 8 February 2023. From the date of docketing to the present date, 322 days have elapsed. On the date requested, 360 days will have elapsed.

On 3 October 2022, Appellant was tried by a general court-martial at Wright-Patterson Air Force Base, Ohio. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with one specification of possession of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 12, 58; Entry of Judgment (EOJ), dated 15 November 2022. The military judge sentenced Appellant to be reduced to the grade of E-1, to be confined for 24 months, and to be discharged from the service with a bad conduct discharge. R. at 122; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. TSgt Blake R. McCartney*, dated 24 October 2022.

The record of trial is 4 volumes consisting of 21 prosecution exhibits, 7 defense exhibits, and 3 appellate exhibits; the transcript is 123 pages. Appellant is not confined.

Undersigned counsel currently represents 20 clients and is presently assigned 15 cases pending brief before this Court. This case is counsel's third priority case, behind:

1. *United States v. Csiti*, No. ACM 40386. The trial transcript is 633 pages long, and the record of trial is comprised of 7 volumes containing 9 prosecution exhibits, 10 defense exhibits, 33 appellate exhibits, and 1 court exhibit. Undersigned counsel has completed her review of the record of trial and is beginning to draft SSgt Csiti's AOE brief. SSgt Csiti's AOE brief is due to this Court of 24 January 2024.
2. *United States v. Byrne*, No. ACM 40391. The trial transcript is 945 pages long and the record of trial is comprised of 8 volumes consisting of 5 prosecution exhibits, 6 defense exhibits, 74 appellate exhibits, and 1 court exhibit. Counsel has not reviewed the record of trial. Mr. Phil Cave is the lead counsel for this case.

Since Appellant's last request for an enlargement of time, undersigned counsel filed a Writ-Appeal Petition for *In re Banker*, Misc. Dkt. No. 2022-01, with the Court of Appeals for the Armed Forces, and filed an AOE brief, consisting of 11 issues, for *United States v. Doroteo*, No. ACM 40363, with this Court. She also prepared for, and participated in, six moot oral arguments for her colleagues for *United States v. Cole*, USCA Dkt. No. 23-0162/AF, *In re H.V.Z.*, USCA Dkt. No. 23-0250/AF, *United States v. Palik*, USCA Dkt. No. 23-0206/AF, and *In re R.W.*, Misc. Dkt. 2023-08. Finally, counsel advised one member regarding his opportunity to appeal directly to this Court.

Through no fault of Appellant, undersigned counsel has yet to complete her review of Appellant's case. This enlargement of time is necessary to allow undersigned counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was informed

of his right to a timely appeal and this request for an enlargement of time, and Appellant agrees with this request for an enlargement of time.

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

Respectfully submitted,

[REDACTED]

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[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 Appellate Government Division on 27 December 2023.

Respectfully submitted,

[REDACTED]

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

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

UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION
	)	FOR ENLARGEMENT OF TIME
v.	)	
	)	
Technical Sergeant (E-6)	)	ACM 40414
BLAKE R. MCCARTNEY, 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 opposition to Appellant's Motion for Enlargement of Time.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant nearly a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 360 days in length. Appellant's nearly year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 6 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's 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.

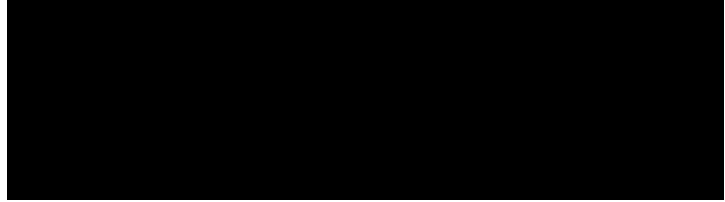


PETE FERRELL, Lt Col, USAF  
Director of Operations  
Government Trial and Appellate Operations Division  
Military Justice and Discipline Directorate  
United States Air Force



**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 28 December 2023.



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 <i>Appellee</i>	)	No. ACM 40414
	)	
	)	
v.	)	
	)	<b>ORDER</b>
Blake R. McCartney	)	
Technical Sergeant (E-6)	)	
U.S. Air Force	)	
<i>Appellant</i>	)	<b>Panel 2</b>

On 27 December 2023, counsel for Appellant submitted a Motion for Enlargement of Time (Ninth) requesting an additional 30 days to submit Appellant’s assignments of error. The Government opposes the motion.

The court has considered Appellant’s motion, the Government’s opposition, case law, and this court’s Rules of Practice and Procedure. Accordingly, it is by the court on this 3d day of January, 2024,

**ORDERED:**

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

Appellant’s counsel is advised that given the number of enlargements of time granted thus far, and the size of the record (123 transcript pages), the court will continue to closely examine any further requests for an enlargement of time.



FOR THE COURT



CAROL K. JOYCE  
Clerk of the Court

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

<b>UNITED STATES</b> <i>Appellee,</i>	)	<b>CONSENT MOTION TO EXAMINE</b>
	)	<b>SEALED MATERIALS</b>
	)	
v.	)	
	)	Before Panel No. 2
Technical Sergeant (E-6)	)	
<b>BLAKE R. MCCARTNEY,</b>	)	No. ACM 40414
United States Air Force	)	
<i>Appellant.</i>	)	11 January 2024
	)	

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

Pursuant to Rule for Courts-Martial (R.C.M.) 1113(b)(3)(B)(i) and Rules 3.1, 23.1(b), and 23.3(f)(1) of this Honorable Court’s Rules of Practice and Procedure, undersigned counsel hereby moves this Court to permit appellate counsel for the Appellant and the Government to examine Prosecution Exhibit 18.

**Facts**

On 3 October 2022, Appellant was tried by a general court-martial at Wright-Patterson Air Force Base, Ohio. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with one specification of possession of child pornography in violation of Article 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 934. R. at 12, 58; Entry of Judgment (EOJ), dated 15 November 2022. The military judge sentenced Appellant to be reduced to the grade of E-1, to be confined for 24 months, and to be discharged from the service with a bad conduct discharge. R. at 122; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. Convening Authority Decision on Action – *United States v. TSgt Blake R. McCartney*, dated 24 October 2022.

During the proceedings, the military judge sealed Prosecution Exhibit 18, Sample Files from Google Warrant Return. R. at 18, 22. Prosecution Exhibit 18 is an undated disc containing 28 files of contraband. R. at 18.

### Law

Appellate counsel may examine materials presented or reviewed at trial and sealed, as well as materials reviewed *in camera*, released to trial or defense counsel, and sealed, upon a colorable showing to the appellate authority that examination is reasonably necessary to a proper fulfillment of the appellate counsel's responsibilities under the UCMJ, the *Manual for Courts-Martial*, governing directives, instructions, regulations, applicable rules for practice and procedure, or rules of professional conduct. R.C.M. 1113(b)(3)(B)(i).

Air Force regulations governing professional duties and conduct of appellate defense counsel impose upon counsel, *inter alia*, a duty to provide "competent representation,"<sup>1</sup> perform "reasonable diligence,"<sup>2</sup> and to "give a client his or her best professional evaluation of the questions that might be presented on appeal...[to] consider all issues that might affect the validity of the judgment of conviction and sentence...[to] advise on the probable outcome of a challenge to the conviction or sentence...[and to] endeavor to persuade the client to abandon a wholly frivolous appeal or to eliminate contentions lacking in substance."<sup>3</sup> These requirements are consistent with those imposed by the state bar to which counsel belong.<sup>4</sup>

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<sup>1</sup> Air Force Instruction (AFI) 51-110, *Professional Responsibility Program*, Attachment 2: Air Force Rules of Professional Conduct, Rule 1.1 (11 Dec. 2018).

<sup>2</sup> *Id.* at Rule 1.3.

<sup>3</sup> AFI 51-110, Attachment 7: Air Force Standards for Criminal Justice, Standard 4-8.3(b).

<sup>4</sup> Undersigned counsel is licensed to practice law in Maryland.

This Court may grant relief “on the basis of the entire record” of trial. Article 66, UCMJ, 10 U.S.C. § 866. Appellate defense counsel detailed by the Judge Advocate General shall represent accused servicemembers before this Court. Article 70, UCMJ, 10 U.S.C. § 870. This Court’s “broad mandate to review the record unconstrained by appellant’s assignments of error” does not reduce “the importance of adequate representation” by counsel; “independent review is not the same as competent appellate representation.” *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998).

### **Analysis**

Prosecution Exhibit 18 is a government exhibit introduced and admitted at trial. Thus, it is evident the parties “presented” and “reviewed” the sealed materials at trial.

It is reasonably necessary for Appellant’s counsel to review this sealed exhibit for counsel to competently conduct a professional evaluation of Appellant’s case and to uncover all issues which might afford him relief. Because examination of the materials in question is reasonably necessary to the fulfillment of counsel’s Article 70, UCMJ, duties, and because the materials were made available to the parties at trial, Appellant has provided the “colorable showing” required by R.C.M. 1113(b)(3)(B)(i) to permit his counsel’s examination of sealed materials and has shown good cause to grant this motion.

The Government consents to both parties viewing the sealed materials detailed above.



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

Respectfully submitted,

A solid black rectangular redaction box covering the signature of the appellant.

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

A large solid black rectangular redaction box covering the contact information, including phone and email details.

**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 11 January 2024.

Respectfully submitted,



MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division



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

<b>UNITED STATES</b>	)	<b>No. ACM 40414</b>
<i>Appellee</i>	)	
	)	
<b>v.</b>	)	
	)	<b>ORDER</b>
<b>Blake R. MCCARTNEY</b>	)	
<b>Technical Sergeant (E-6)</b>	)	
<b>U.S. Air Force</b>	)	
<i>Appellant</i>	)	<b>Panel 2</b>

On 11 January 2024, counsel for Appellant submitted a Consent Motion to Examine Sealed Materials, requesting both parties be allowed to examine Prosecution Exhibit 18. Images were reviewed by trial counsel and trial defense counsel as well as the military judge.

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* (2019 ed.).

The court finds Appellant has made a colorable showing that review of sealed materials is reasonably necessary for a proper fulfillment of appellate defense counsel’s responsibilities. This court’s order permits counsel for both parties to examine the materials.

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

**ORDERED:**

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

Appellate defense counsel and appellate government counsel may view **Prosecution Exhibit 18**, subject to the following conditions: To view the sealed materials, counsel will coordinate with the court.

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



FOR THE COURT



CAROL K. JOYCE  
Clerk of the Court

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

**UNITED STATES**

*Appellee,*

v.

Technical Sergeant (E-5)

**BLAKE R. MCCARTNEY,**

United States Air Force

*Appellant.*

**MOTION TO WITHDRAW FROM  
APPELLATE REVIEW AND ATTACH**

Before Panel No. 2

No. ACM 40414

24 January 2024

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

Pursuant to Rule 16 of this Honorable Court's Rules of Practice and Procedure and Rule for Courts-Martial (R.C.M.) 1115, Technical Sergeant Blake R. McCartney, Appellant, moves to withdraw his case from appellate review. Appellant has fully consulted with undersigned counsel, his appellate defense counsel, regarding this motion and his decision 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) of this Honorable Court's Rules of Practice and Procedure, the undersigned counsel asks this Court to attach the two-page document appended to this pleading to the record of this proceeding. The appended document is necessary to comply with R.C.M. 1115(d) and R.C.M. 1115(e).

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

Respectfully submitted,

[REDACTED]

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

**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 Appellate Government Division on 24 January 2024.

Respectfully submitted,

[REDACTED]

MEGAN R. CROUCH, Maj, USAF  
Appellate Defense Counsel  
Air Force Appellate Defense Division

[REDACTED]

**WAIVER/WITHDRAWAL OF APPELLATE RIGHTS IN GENERAL AND SPECIAL COURTS-MARTIAL SUBJECT TO  
REVIEW BY A COURT OF CRIMINAL APPEALS**  
*(For use in courts-martial referred on or after 1 January 2019)*

I have read the attached entry of judgment in my case dated 15 November 2022 .

I have consulted with Major Megan Crouch , my ~~(associate)~~ defense counsel concerning my appellate rights and I am satisfied with his/her advice.

I understand that:

1. If I do not waive or withdraw appellate review –

- a. My court-martial will be  automatically reviewed by the U.S. Air Force Court of Criminal Appeals per Article 66(b)(3) or  is eligible for direct review by the \_\_\_\_\_ Court of Criminal Appeals per Article 66(b)(1)(A-B).
- b. The Court of Criminal Appeals will review my case to determine whether the findings and sentence are correct in law and fact and whether the sentence is appropriate.
- c. After review by the Court of Criminal Appeals, my case could be reviewed for legal error by the United States Court of Appeals for the Armed Forces on petition by me or on request of the Judge Advocate General.
- d. If the Court of Appeals for the Armed Forces reviews my case, my case could be reviewed for legal error by the United States Supreme Court on petition by me or the Government.
- e. I have the right to be represented by military counsel, at no cost to me, or by civilian counsel, at no expense to the United States, or both, before the Court of Criminal Appeals, the Court of Appeals for the Armed Forces, and the Supreme Court.

2. If I waive or withdraw appellate review –

- a. My case will not be reviewed by the Court of Criminal Appeals, or be subject to further review by the Court of Appeals for the Armed Forces, or by the Supreme Court under 28 U.S.C. § 1259.
- b. My case will be reviewed by a judge advocate per Article 65(d)(3). Upon completion of that review, I may submit an application for consideration by The Judge Advocate General under Article 69(b), for review limited to the issue of whether this waiver or withdrawal was invalid under the law. See R.C.M. 1201(h)(4)(B).
- c. An Article 69(b) application must be filed within one year after the date of completion of review under Article 65(d)(3), if I can show good cause for filing later the period may be extended up to three years after the completion date.
- d. I may file a waiver of appellate review at any time after entry of judgment.
- e. I may file withdrawal from appellate review any time before such review is completed.
- f. A waiver or withdrawal, once filed, cannot be revoked, and bars further appellate review. A waiver or withdrawal may not be filed in any case where the sentence includes death.

3. Whether or not I waive or withdraw appellate review, I may petition the Judge Advocate General for a new trial under Article 73 on the grounds of newly discovered evidence or fraud on the court at any time within three years after the date of the entry of judgment.

I understand the foregoing, and I ~~(waive my rights to appellate review)~~ **withdraw my case from appellate review**. I make this decision freely and voluntarily. No one has made any promises that I would receive any benefit from this waiver/withdrawal, and no one has forced me to make it.

BLAKE R. MCCARTNEY

TECHNICAL SERGEANT (E-5)

\_\_\_\_\_  
TYPED NAME OF ACCUSED

\_\_\_\_\_  
RANK OF ACCUSED

23-01-2024

\_\_\_\_\_  
SIGNATURE OF ACCUSED

\_\_\_\_\_  
DATE

STATEMENT OF COUNSEL

(Check appropriate block)

- 1. I represented the accused at his/her court-martial
- 2. I am associate counsel detailed under R.C.M. 1115(b). I have communicated with the accused's (detailed) (individual military) (civilian) (appellate) defense counsel concerning the accused's waiver/withdrawal and discussed this communication with the accused.
- 3. I am substitute counsel detailed under R.C.M. 1115(b).
- 4. I am civilian counsel whom the accused consulted concerning this matter. I am a member in good standing of the bar of \_\_\_\_\_
- 5. I am appellate defense counsel for the accused.

I have advised the accused of his/her appellate rights and of the consequences of waiving or withdrawing appellate review. I was given a reasonable opportunity to examine the record of trial and any attachments in the accused's case before advising the accused. The accused has elected to ~~(waive)~~ **withdraw** appellate review.

MEGAN R. CROUCH

Air Force Appellate Defense Division (AF/JAJA)

TYPED NAME OF COUNSEL

UNIT OF COUNSEL

MAJOR (O-4)

RANK OF COUNSEL

BUSINESS ADDRESS (If Civilian Counsel)

[Redacted Signature]

24 January 2024

SIGNATURE OF COUNSEL

DATE