

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.)	
)	
)	
Staff Sergeant (E-5),	)	No. ACM SXXXXXX
ALYIAH L. MONROE,)	
United States Air Force,	)	17 January 2025
<i>Appellant.</i>)	

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

On 19 March 2024, a special court-martial consisting of a military judge alone at Cannon Air Force Base, New Mexico, convicted Staff Sergeant (SSgt) Alyiah Monroe, contrary to her pleas, of one charge and one specification of being absent without leave in violation of Article 86, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 886. R. at 173. The military judge sentenced SSgt Monroe to a reprimand, reduction to the grade of E-2, and confinement for 77 days. R. at 190. The Convening Authority took no action on the findings or the sentence. Convening Authority Decision on Action, 5 April 2024.

The required notice of her right to appeal within 90 days was not delivered to SSgt Monroe via certified mail, and it was not deliverable at the address recorded on the letter in the record of trial. Pursuant to Article 66(b)(1)(A), UCMJ, SSgt Monroe files her notice of direct appeal with this Court.

Respectfully submitted,

A solid black rectangular redaction box covering the signature area.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

A solid black rectangular redaction box covering contact information, with a small white rectangular cutout on the right side.

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 17 January 2025.

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

[REDACTED]

[REDACTED]

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

UNITED STATES	)	No. ACM _____
<i>Appellee</i>)	
)	
v.)	
)	
Alyiah L. MONROE	)	NOTICE OF
Staff Sergeant (E-5)	)	DOCKETING
U.S. Air Force)	
<i>Appellant</i>)	

On 17 January 2025, 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 (UCMJ), 10 U.S.C. § 866(b)(1)(A).

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

Pursuant to Rule 18(d)(2) of the Joint Rules of Appellate Procedure for Courts of Criminal Appeals, “[a]s soon as practicable after the filing of a Notice of Appeal, the [G]overnment shall provide the Court a complete record, including a verbatim transcript, and provide a copy to the defense. An appellant’s brief shall be filed no later than 60 days thereafter.” JT. CT. CRIM. APP. R. 18(d)(2) (as amended 17 May 2024). “[T]he record shall be the contents described in [Rule for Courts-Martial (R.C.M.)] 1112(b) as certified under R.C.M. 1112(c), the attachments for appellate review described in R.C.M. 1112(f), and . . . documents germane to timeliness of the appeal under Article 66(c)(1), UCMJ.” JT. CT. CRIM. APP. R. 6(a)(1).

The court defers decision with regard to timeliness of Appellant’s appeal pending receipt of the record of trial. *See* Article 66(c), UCMJ.

Accordingly, it is by the court on this 21st day of January, 2025,

ORDERED:

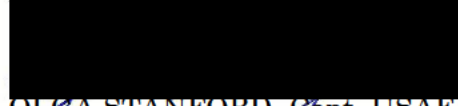
The case in the above-styled matter is referred to Panel 2.

It is further ordered:

The Government will forward a copy of the record of trial to Appellant and the court “as soon as practicable.” *See* JT. CT. CRIM. APP. R. 6(a)(1); 8(d)(2).



FOR THE COURT



OLGA STANFORD, Capt, USAF
Chief Commissioner

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

UNITED STATES	)	No. ACM 25008
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Aliyah L. MONROE)	
Staff Sergeant (E-5))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 2

On 6 April 2025, counsel for Appellant submitted a Motion for Enlargement of Time (First) requesting an additional 60 days to submit Appellant’s assignments of error. The Government generally opposes the motion.

The court has considered Appellant’s motion, the Government’s opposition, this court’s Rules of Practice and Procedure, and applicable case law. For ease of potential implementation of this court’s Rule 23.3(m)(6), which refers to date of docketing, the court finds good cause to grant counsel an enlargement such that Appellant’s brief is due 150 days after docketing. A.F. CT. CRIM. APP. R. 23.3(m)(6). Therefore, we grant Appellant’s counsel seven more days than requested. *See* JT. CT. CRIM. APP. R.32.

Accordingly, it is by the court on this 8th day of April, 2025,

ORDERED:

Appellant’s Motion for Enlargement of Time (First) is **GRANTED**. Appellant shall file any assignments of error **not later than 20 June 2025**.

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

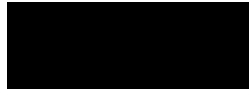
Appellant’s counsel is advised that any subsequent motions for enlargement of time shall include, in addition to the matters required under this court’s Rules of Practice and Procedure, statements as to: (1) whether Appellant was advised of Appellant’s right to a timely appeal, (2) whether Appellant was provided an update of the status of counsel’s progress on Appellant’s case, (3) whether Appellant was advised of the request for an enlargement of time, and (4) whether Appellant agrees with the request for an enlargement of time. Counsel is not required to re-address item (1) in each subsequent motion for enlargement of time if counsel previously replied in the affirmative.

Counsel may request, and the court may order *sua sponte*, a status conference to facilitate timely processing of this appeal. *See* A. F. Ct. CRIM. APP. R. 23.4.

Appellant's counsel is further advised that any future requests for enlargements of time that, if granted, would expire more than 330 days after docketing, will not be granted absent exceptional circumstances.



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FIRST)
)	
v.	)	Before Panel No. 2
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,	)	6 April 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(1) and (2) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a first enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of sixty days, which will end on **13 June 2025**. The record of trial was docketed with this Court on 21 January 2025. The Government forwarded the record of trial to this Court on 13 February 2025. From the date of docketing to the present date, 75 days have elapsed. On the date requested, 143 days will have elapsed. From the date the Court received the record of trial to when this enlargement of time, if granted, would end, 120 days will have elapsed.

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

Respectfully submitted,

[Redacted Signature]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

[Redacted Address]

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 6 April 2025.

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
	)	Before Panel No. 2
Staff Sergeant (E-5))	
ALIYAH L. MONROE,	)	No. ACM 25008
United States Air Force,)	
<i>Appellant.</i>)	
	)	7 April 2025

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

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

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

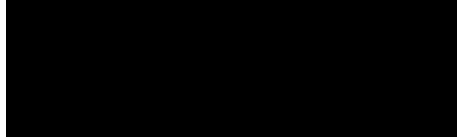
[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

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

CERTIFICATE OF FILING AND SERVICE

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



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SECOND)
)	
v.	)	Before Panel No. 2
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,	)	13 June 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a second enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **20 July 2025**. The record of trial was docketed with this Court on 21 January 2025. The Government forwarded the record of trial to this Court on 13 February 2025. From the date of docketing to the present date, 143 days have elapsed. On the date requested, 180 days will have elapsed. From the date the Court received the record of trial to when this enlargement of time, if granted, would end, 157 days will have elapsed.

On 18–19 March 2024, a special court-martial consisting of a military judge alone at Cannon Air Force Base, New Mexico, convicted Appellant, contrary to her pleas, of one charge and one specification of absence without leave in violation of Article 86, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 886. R. at 173, Record of Trial (ROT) Vol. 1, Entry of Judgment, 23 April 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-2, and confinement for seventy-seven days. R. at 190; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Aliyah L. Monroe*, 5 April 2024.

The record of trial is four volumes consisting of four prosecution exhibits and twenty-one appellate exhibits; the transcript is 194 pages. Appellant is not currently confined.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of her right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was advised of this request for an enlargement of time, and has not expressed agreement or disagreement with this request for an enlargement of time.

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 13 June 2025.

Respectfully submitted,

A solid black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

A solid black rectangular redaction box covering the contact information of Frederick J. Johnson.

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
	)	Before Panel No. 2
Staff Sergeant (E-5))	
ALIYAH L. MONROE,	)	No. ACM 25008
United States Air Force,)	
<i>Appellant.</i>)	
	)	17 June 2025

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

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

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

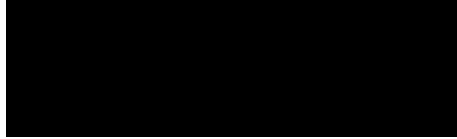
[Redacted signature block]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

[Redacted contact information]

CERTIFICATE OF FILING AND SERVICE

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



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (THIRD)
)	
v.	)	Before Panel No. 2
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,	)	10 July 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a third enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **19 August 2025**. The record of trial was docketed with this Court on 21 January 2025. The Government forwarded the record of trial to this Court on 13 February 2025. From the date of docketing to the present date, 170 days have elapsed. On the date requested, 210 days will have elapsed. From the date the Court received the record of trial to when this enlargement of time, if granted, would end, 187 days will have elapsed.

On 18–19 March 2024, a special court-martial consisting of a military judge alone at Cannon Air Force Base, New Mexico, convicted Appellant, contrary to her pleas, of one charge and one specification of absence without leave in violation of Article 86, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 886. R. at 173, Record of Trial (ROT) Vol. 1, Entry of Judgment, 23 April 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-2, and confinement for seventy-seven days. R. at 190; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Aliyah L. Monroe*, 5 April 2024.

The record of trial is four volumes consisting of four prosecution exhibits and twenty-one appellate exhibits; the transcript is 194 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing forty clients; twenty-five clients are pending initial AOE's before this Court.¹ Additionally, one client has an upcoming supplement to the petition for grant of review and another client has a pending answer brief, both before the United States Court of Appeals for the Armed Forces (CAAF). Thirteen matters currently have priority over this case:

- 1) *United States v. York*, ACM 40604 – The record of trial is seven volumes consisting of five prosecution exhibits, two defense exhibits, thirty-six appellate exhibits, and one court exhibit; the transcript is 847 pages. Undersigned counsel has petitioned the CAAF for a grant of review and drafted the supplement to the petition in this case.
- 2) *United States v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF – The record of trial is eight volumes consisting of 11 prosecution exhibits, nine defense exhibits, one court exhibit, and 71 appellate exhibits; the transcript is 703 pages. Undersigned counsel is reviewing the Government's Brief in Support of the Certified Issue and drafting an answer brief in this case.
- 3) *United States v. Jackson*, ACM S32780 – The record of trial is five volumes consisting of twelve prosecution exhibits, thirteen defense exhibits, five appellate exhibits, and

¹ Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a seven-page AOE in *U.S. v. Keilberg*, ACM 40601; petitioned the CAAF for a grant of review and drafted a fifteen-page supplement to the petition in *U.S. v. York*, ACM 40604, USCA Dkt. No. 25-0200/AF; reviewed the Government's answer and prepared and filed a two-page reply brief in *U.S. v. Haymond*, ACM 40588; reviewed the Government's answer and prepared and filed an eight-page reply brief in *U.S. v. Driskill*, ACM 39889 (rem); and prepared and filed a motion to withdraw from appellate review in *U.S. v. Harnar*, ACM 40559 (f rev). Additionally, counsel was off for the Juneteenth and Independence Day holidays.

- one court exhibit; the transcript is 122 pages. Undersigned counsel has begun reviewing the record of trial, and additional counsel has been detailed to this case.
- 4) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Undersigned counsel has begun reviewing the record of trial, and additional counsel has been detailed to this case.
 - 5) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel has begun reviewing the record of trial in this case.
 - 6) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
 - 7) *United States v. Payton*, ACM 40669 – The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
 - 8) *United States v. Mims*, ACM S32799 – The electronic record of trial is one volume consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 103 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

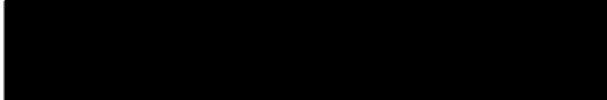
- 9) *United States v. Polly*, ACM 40709 – The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 10) *United States v. Penninga*, ACM 40714 – The electronic record of trial is three volumes consisting of sixteen prosecution exhibits, three defense exhibits, one court exhibit, and seventy-three appellate exhibits; the transcript is 822 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 11) *United States v. Gossett*, ACM 40715 – The record of trial is ten volumes consisting of seven prosecution exhibits, seven defense exhibits, one court exhibit, and seventy appellate exhibits; the transcript is 1076 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 12) *United States v. Her*, ACM 40747 – The electronic record of trial is eleven volumes consisting of eleven prosecution exhibits, fourteen defense exhibits, two court exhibits, and sixty-seven appellate exhibits; the transcript is 961 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 13) *United States v. Carey*, ACM S32806 – The electronic record of trial is five volumes consisting of seven prosecution exhibits, six defense exhibits, and thirty-seven appellate exhibits; the transcript is 294 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

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

advised of her right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was advised of this request for an enlargement of time, and has not expressed agreement or disagreement with this request for an enlargement of time.

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel



CERTIFICATE OF FILING AND SERVICE

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

Respectfully submitted,

A solid black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

A solid black rectangular redaction box covering contact information, including a phone number and email address.

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
	)	Before Panel No. 2
Staff Sergeant (E-5))	
ALIYAH L. MONROE,	)	No. ACM 25008
United States Air Force,)	
<i>Appellant.</i>)	
	)	11 July 2025

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

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

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

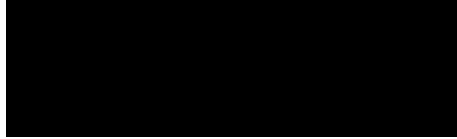
[Redacted signature block]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

[Redacted signature block]

CERTIFICATE OF FILING AND SERVICE

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



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



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

UNITED STATES	)	No. ACM 25008
<i>Appellee</i>)	
)	
v.)	
	)	NOTICE OF PANEL CHANGE
Aliyah L. MONROE)	
Staff Sergeant (E-5))	
U.S. Air Force)	
<i>Appellant</i>)	

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

ORDERED:

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

This panel letter supersedes all previous panel assignments.



FOR THE COURT



AGNIESZKA M. GAERTNER, Capt, USAF
Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FOURTH)
)	
v.	)	Before Panel No. 3
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,	)	12 August 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a fourth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **18 September 2025**. The record of trial was docketed with this Court on 21 January 2025. The Government forwarded the record of trial to this Court on 13 February 2025. From the date of docketing to the present date, 203 days have elapsed. On the date requested, 240 days will have elapsed. From the date the Court received the record of trial to when this enlargement of time, if granted, would end, 217 days will have elapsed.

On 18–19 March 2024, a special court-martial consisting of a military judge alone at Cannon Air Force Base, New Mexico, convicted Appellant, contrary to her pleas, of one charge and one specification of absence without leave in violation of Article 86, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 886. R. at 173, Record of Trial (ROT) Vol. 1, Entry of Judgment, 23 April 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-2, and confinement for seventy-seven days. R. at 190; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Aliyah L. Monroe*, 5 April 2024.

The record of trial is four volumes consisting of four prosecution exhibits and twenty-one appellate exhibits; the transcript is 194 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-three clients; nineteen clients are pending initial AOE's before this Court.¹ Additionally, one client has an upcoming petition for grant of review and supplement to the petition before the United States Court of Appeals for the Armed Forces (CAAF). Twelve matters currently have priority over this case:

- 1) *United States v. Keilberg*, ACM 40601 – The record of trial is four volumes consisting of thirteen prosecution exhibits, one defense exhibit, and seven appellate exhibits; the transcript is 118 pages. Undersigned counsel has drafted a reply brief in this case.
- 2) *United States v. Smith*, ACM 40437 (f rev) – The record of trial is four volumes consisting of seven prosecution exhibits, ten defense exhibits, and twenty-nine appellate exhibits; the transcript is 338 pages. Additional counsel has been detailed to this case and is drafting the AOE.
- 3) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel has reviewed the record of trial and is drafting the AOE in this case.

¹ Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a sixteen-page supplement to the petition for grant of review to the CAAF in *U.S. v. York*, ACM 40604, USCA Dkt. No. 25-0200/AF; prepared and filed an eleven-page answer brief to the CAAF in *U.S. v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF; prepared and filed a nine-page answer to the Government's petition for reconsideration before the CAAF in *U.S. v. Patterson*, ACM 40426, USCA Dkt. No. 25-0073/AF; completed his review of the seven-volume record of trial and began drafting the AOE in *U.S. v. Banks*, ACM 24057; drafted a six-page reply in *U.S. v. Keilberg*, ACM 40601; and began reviewing the record of trial in *U.S. v. Simmons*, ACM 40658. Additionally, counsel was on leave on 17–20 July and 1–5 August 2025.

- 4) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has begun reviewing the record of trial in this case.
- 5) *United States v. Payton*, ACM 40669 – The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Undersigned counsel has begun reviewing the record of trial in this case.
- 6) *United States v. Soloshenko*, ACM 40581 – The electronic record of trial is two volumes consisting of seven prosecution exhibits, two defense exhibits, twenty-seven appellate exhibits, and one court exhibit; the transcript is 773 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.
- 7) *United States v. Mims*, ACM S32799 – The electronic record of trial is one volume consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 103 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 8) *United States v. Polly*, ACM 40709 – The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 9) *United States v. Penninga*, ACM 40714 – The electronic record of trial is three volumes consisting of sixteen prosecution exhibits, three defense exhibits, one court exhibit, and

seventy-three appellate exhibits; the transcript is 822 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

10) *United States v. Gossett*, ACM 40715 – The record of trial is ten volumes consisting of seven prosecution exhibits, seven defense exhibits, one court exhibit, and seventy appellate exhibits; the transcript is 1076 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

11) *United States v. Her*, ACM 40747 – The electronic record of trial is eleven volumes consisting of eleven prosecution exhibits, fourteen defense exhibits, two court exhibits, and sixty-seven appellate exhibits; the transcript is 961 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

12) *United States v. Carey*, ACM S32806 – The electronic record of trial is five volumes consisting of seven prosecution exhibits, six defense exhibits, and thirty-seven appellate exhibits; the transcript is 294 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of her right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was advised of this request for an enlargement of time, and has not expressed agreement or disagreement with this request for an enlargement of time.

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 12 August 2025.

Respectfully submitted,

A solid black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
Staff Sergeant (E-5)	)	Before Panel No. 3
ALIYAH L. MONROE,	)	No. ACM 25008
United States Air Force,)	
<i>Appellant.</i>	)	14 August 2025

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

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

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

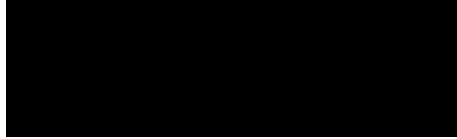
[Redacted signature block]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

[Redacted contact information]

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 14 August 2025.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (FIFTH)
)	
v.	)	Before Panel No. 3
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,	)	11 September 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a fifth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **18 October 2025**. The record of trial was docketed with this Court on 21 January 2025. The Government forwarded the record of trial to this Court on 13 February 2025. From the date of docketing to the present date, 233 days have elapsed. On the date requested, 270 days will have elapsed. From the date the Court received the record of trial to when this enlargement of time, if granted, would end, 247 days will have elapsed.

On 18–19 March 2024, a special court-martial consisting of a military judge alone at Cannon Air Force Base, New Mexico, convicted Appellant, contrary to her pleas, of one charge and one specification of absence without leave in violation of Article 86, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 886. R. at 173; Record of Trial (ROT) Vol. 1, Entry of Judgment, 23 April 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-2, and confinement for seventy-seven days. R. at 190; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Aliyah L. Monroe*, 5 April 2024.

The record of trial is four volumes consisting of four prosecution exhibits and twenty-one appellate exhibits; the transcript is 194 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-two clients; fourteen clients are pending initial AOE's before this Court.¹ Additionally, one client has an upcoming petition for grant of review and supplement to the petition before the United States Court of Appeals for the Armed Forces (CAAF). Five additional clients have upcoming petitions for a writ of certiorari before the Supreme Court of the United States. Ten matters currently have priority over this case:

- 1) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel has drafted the AOE in this case.
- 2) *United States v. Payton*, ACM 40669 – The record of trial is five volumes consisting of three prosecution exhibits, five defense exhibits, and three appellate exhibits; the transcript is 175 pages. Undersigned counsel has filed a motion to withdraw from appellate review in this case.

¹ Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a six-page motion for summary disposition to the CAAF in *U.S. v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF; prepared and filed a 24-page AOE in *U.S. v. Banks*, ACM 24057; prepared and filed a six-page reply in *U.S. v. Keilberg*, ACM 40601; prepared and filed a four-page motion for leave to file motion for remand and motion for remand, a six-page motion for reconsideration with suggestion for *en banc* consideration, and a motion to withdraw from appellate review in *U.S. v. Payton*, ACM 40669; and completed his review of the four-volume record of trial and drafted a four-page AOE in *U.S. v. Simmons*, ACM 40658. Additionally, counsel was on leave on 22–25 August 2025, was off for the Labor Day holiday, and attended the virtual preliminary hearing officer and legal advisor course on 3–4 September 2025.

- 3) *United States v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 24-0146/AF – The record of trial is nine volumes consisting of 14 prosecution exhibits, 16 defense exhibits, one court exhibit, and 47 appellate exhibits; the transcript is 896 pages. Undersigned counsel is preparing to petition the Supreme Court of the United States for a writ of certiorari in this case.
- 4) *United States v. Soloshenko*, ACM 40581 – The electronic record of trial is two volumes consisting of seven prosecution exhibits, two defense exhibits, twenty-seven appellate exhibits, and one court exhibit; the transcript is 773 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.
- 5) *United States v. Mims*, ACM S32799 – The electronic record of trial is one volume consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 103 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 6) *United States v. Polly*, ACM 40709 – The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 7) *United States v. Penninga*, ACM 40714 – The electronic record of trial is three volumes consisting of sixteen prosecution exhibits, three defense exhibits, one court exhibit, and seventy-three appellate exhibits; the transcript is 822 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 8) *United States v. Gossett*, ACM 40715 – The record of trial is ten volumes consisting of seven prosecution exhibits, seven defense exhibits, one court exhibit, and seventy

appellate exhibits; the transcript is 1076 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

9) *United States v. Her*, ACM 40747 – The electronic record of trial is eleven volumes consisting of eleven prosecution exhibits, fourteen defense exhibits, two court exhibits, and sixty-seven appellate exhibits; the transcript is 961 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

10) *United States v. Carey*, ACM S32806 – The electronic record of trial is five volumes consisting of seven prosecution exhibits, six defense exhibits, and thirty-seven appellate exhibits; the transcript is 294 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of her right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was advised of this request for an enlargement of time, and has not expressed agreement or disagreement with this request for an enlargement of time.

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

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

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

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

[REDACTED]

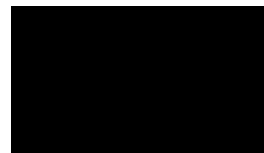
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
Staff Sergeant (E-5)	)	Before Panel No. 3
ALIYAH L. MONROE,	)	No. ACM 25008
United States Air Force,)	
<i>Appellant.</i>	)	15 September 2025

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

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

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



KATE E. LEE, Maj, USAF
Appellate Government Counsel



CERTIFICATE OF FILING AND SERVICE

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



KATE E. LEE, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SIXTH)
)	
v.	)	Before Panel No. 3
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,	)	10 October 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a sixth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **17 November 2025**. The record of trial was docketed with this Court on 21 January 2025. The Government forwarded the record of trial to this Court on 13 February 2025. From the date of docketing to the present date, 262 days have elapsed. On the date requested, 300 days will have elapsed. From the date the Court received the record of trial to when this enlargement of time, if granted, would end, 277 days will have elapsed.

On 18–19 March 2024, a special court-martial consisting of a military judge alone at Cannon Air Force Base, New Mexico, convicted Appellant, contrary to her pleas, of one charge and one specification of absence without leave in violation of Article 86, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 886. R. at 173; Record of Trial (ROT) Vol. 1, Entry of Judgment, 23 April 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-2, and confinement for seventy-seven days. R. at 190; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Aliyah L. Monroe*, 5 April 2024.

The record of trial is four volumes consisting of four prosecution exhibits and twenty-one appellate exhibits; the transcript is 194 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-three clients; twelve clients are pending initial AOE's before this Court.¹ Additionally, two clients have pending supplements to petitions for a grant of review, and one additional client has an upcoming petition for grant of review and supplement to the petition, all before the United States Court of Appeals for the Armed Forces (CAAF). Four additional clients have upcoming petitions for a writ of certiorari before the Supreme Court of the United States. Ten matters currently have priority over this case:

- 1) *United States v. Soloshenko*, ACM 40581 – The electronic record of trial is two volumes consisting of seven prosecution exhibits, two defense exhibits, twenty-seven appellate exhibits, and one court exhibit; the transcript is 773 pages. Undersigned counsel has petitioned the CAAF for a grant of review and is drafting the supplement to the petition in this case.
- 2) *United States v. Adams*, ACM 22018, USCA Dkt. No. 25-0270/AF – The record of trial is three volumes consisting of two prosecution exhibits, three defense exhibits, and

¹ Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a four-page AOE in *U.S. v. Simmons*, ACM 40658; prepared and filed a two-page motion for oral argument in *U.S. v. Casillas*, ACM 40551; reviewed and edited a 45-page petition for a writ of certiorari in *Dawson v. U.S.*, ACM 24041, USCA Dkt. No. 25-0156/AF; filed a petition for grant of review to the CAAF and began drafting the supplement to the petition in *U.S. v. Soloshenko*, ACM 40581, USCA Dkt. No. 25-0273/SF; filed an application for an extension of time to file a petition for a writ of certiorari in *Schneider, et al. v. U.S.*; reviewed the record and drafted a supplement to the petition for grant of review to the CAAF in *U.S. v. Adams*, ACM 22018, USCA Dkt. No. 25-0270/AF; filed an application for an extension of time to file a petition for a writ of certiorari in *Zhong v. U.S.*, ACM 40354, USCA Dkt. No. 24-0146/AF; and participated in seven practice oral arguments for five additional cases. Additionally, counsel was on leave on 12 and 16 September 2025 and attended the Joint Appellate Advocacy Training on 25–26 September 2025.

- seventeen appellate exhibits; the transcript is 299 pages. Undersigned counsel was recently detailed to this case and has drafted a supplement to the petition for grant of review to the CAAF.
- 3) *United States v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 24-0146/AF – The record of trial is nine volumes consisting of 14 prosecution exhibits, 16 defense exhibits, one court exhibit, and 47 appellate exhibits; the transcript is 896 pages. Undersigned counsel is drafting a brief on remand in this case.
 - 4) *Zhong v. United States*, ACM 40354, USCA Dkt. No. 24-0146/AF – The record of trial is four volumes consisting of 14 prosecution exhibits, 11 defense exhibits, 12 appellate exhibits, and one court exhibit; the transcript is 482 pages. Undersigned counsel is preparing to petition the Supreme Court of the United States for a writ of certiorari in this case.
 - 5) *United States v. Mims*, ACM S32799 – The electronic record of trial is one volume consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 103 pages. Undersigned counsel has not yet begun reviewing the record of trial, but additional counsel has been detailed to this case.
 - 6) *United States v. Polly*, ACM 40709 – The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
 - 7) *United States v. Penninga*, ACM 40714 – The electronic record of trial is three volumes consisting of sixteen prosecution exhibits, three defense exhibits, one court exhibit, and

- seventy-three appellate exhibits; the transcript is 822 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 8) *United States v. Gossett*, ACM 40715 – The record of trial is ten volumes consisting of seven prosecution exhibits, seven defense exhibits, one court exhibit, and seventy appellate exhibits; the transcript is 1076 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 9) *United States v. Her*, ACM 40747 – The electronic record of trial is eleven volumes consisting of eleven prosecution exhibits, fourteen defense exhibits, two court exhibits, and sixty-seven appellate exhibits; the transcript is 961 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 10) *United States v. Carey*, ACM S32806 – The electronic record of trial is five volumes consisting of seven prosecution exhibits, six defense exhibits, and thirty-seven appellate exhibits; the transcript is 294 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of her right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

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

Respectfully submitted,

A solid black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

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

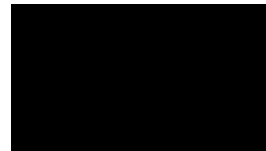
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
	)	OF TIME
v.)	
)	
Staff Sergeant (E-5)	)	Before Panel No. 3
ALIYAH L. MONROE,	)	No. ACM 25008
United States Air Force,)	
<i>Appellant.</i>	)	14 October 2025

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

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

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



KATE E. LEE, Maj, USAF
Appellate Government Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 14 October 2025.



KATE E. LEE, Maj, USAF
Appellate Government Counsel



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

UNITED STATES <i>Appellee</i>	)	No. ACM 25008
)	
v.)	
	)	ORDER
Aliyah L. MONROE Staff Sergeant (E-5) U.S. Air Force <i>Appellant</i>)	
	)	Panel 3

On 7 November 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Seventh), requesting an additional 30 days to submit Appellant’s assignments of error. The Government opposes the motion.

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

Accordingly, it is by the court on this 14th day of November 2025,

ORDERED:

Appellant’s Motion for Enlargement of Time (Seventh) is **GRANTED**. Appellant shall file any assignments of error not later than **17 December 2025**.

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



JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (SEVENTH)
)	
v.	)	Before Panel No. 3
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,	)	7 November 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a seventh enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **17 December 2025**. The record of trial was docketed with this Court on 21 January 2025. The Government forwarded the record of trial to this Court on 13 February 2025. From the date of docketing to the present date, 290 days have elapsed. On the date requested, 330 days will have elapsed. From the date the Court received the record of trial to when this enlargement of time, if granted, would end, 307 days will have elapsed.

On 18–19 March 2024, a special court-martial consisting of a military judge alone at Cannon Air Force Base, New Mexico, convicted Appellant, contrary to her pleas, of one charge and one specification of absence without leave in violation of Article 86, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 886. R. at 173; Record of Trial (ROT) Vol. 1, Entry of Judgment, 23 April 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-2, and confinement for seventy-seven days. R. at 190; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Aliyah L. Monroe*, 5 April 2024.

The record of trial is four volumes consisting of four prosecution exhibits and twenty-one appellate exhibits; the transcript is 194 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-three clients; twelve clients are pending initial AOE's before this Court.¹ Additionally, four clients have upcoming petitions for grant of review and supplements to the petitions, and another client has an upcoming oral argument, all before the United States Court of Appeals for the Armed Forces (CAAF). Four additional clients have upcoming petitions for a writ of certiorari before the Supreme Court of the United States. Nine matters currently have priority over this case:

- 1) *United States v. Mims*, ACM S32799 – The electronic record of trial is one volume consisting of three prosecution exhibits, six defense exhibits, and five appellate exhibits; the transcript is 103 pages. Undersigned counsel has not yet begun reviewing the record of trial, but additional counsel has been detailed to this case.
- 2) *United States v. Polly*, ACM 40709 – The record of trial is seven volumes consisting of four prosecution exhibits, one defense exhibit, eighty-two appellate exhibits, and one court exhibit; the transcript is 243 pages. Undersigned counsel is reviewing the record of trial in this case.

¹ Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a sixteen-page supplement to the petition for grant of review to the CAAF in *U.S. v. Soloshenko*, ACM 40581, USCA Dkt. No. 25-0273/SF; prepared and filed a four-page supplement to the petition for grant of review to the CAAF and drafted a reply to the Government's answer in *U.S. v. Adams*, ACM 22018, USCA Dkt. No. 25-0270/AF; prepared and filed a six-page brief on remand in *U.S. v. Navarro Aguirre*, ACM 40354 (rem); began reviewing the record of trial in *U.S. v. Polly*, ACM 40709; prepared and filed a seven-page reply to the Government's motion for reconsideration in *U.S. v. Casillas*, ACM 40551; prepared and filed a fourteen-page reply to the Government's answer in *U.S. v. Banks*, ACM 24057; and participated in seven practice oral arguments for five additional cases. Additionally, counsel was off for the Columbus Day holiday and was on leave on 24–26 October 2025.

- 3) *United States v. Haymond*, ACM 40588 – The record of trial is seven volumes consisting of five prosecution exhibits, seven defense exhibits, 42 appellate exhibits, and one court exhibit; the transcript is 689 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.
- 4) *United States v. Zhong*, ACM 40354, USCA Dkt. No. 24-0146/AF – ACM 40411, USCA Dkt. No. 25-0011/AF – The record of trial is four volumes consisting of 14 prosecution exhibits, 11 defense exhibits, 12 appellate exhibits, and one court exhibit; the transcript is 482 pages. Undersigned counsel is preparing to petition the Supreme Court of the United States for a writ of certiorari in this case.
- 5) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight appellate exhibits; the transcript is 248 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.
- 6) *United States v. Gossett*, ACM 40715 – The record of trial is ten volumes consisting of seven prosecution exhibits, seven defense exhibits, one court exhibit, and seventy appellate exhibits; the transcript is 1076 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 7) *United States v. Penninga*, ACM 40714 – The electronic record of trial is three volumes consisting of sixteen prosecution exhibits, three defense exhibits, one court exhibit, and seventy-three appellate exhibits; the transcript is 822 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 8) *United States v. Her*, ACM 40747 – The electronic record of trial is eleven volumes consisting of eleven prosecution exhibits, fourteen defense exhibits, two court exhibits,

and sixty-seven appellate exhibits; the transcript is 961 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

- 9) *United States v. Carey*, ACM S32806 – The electronic record of trial is five volumes consisting of seven prosecution exhibits, six defense exhibits, and thirty-seven appellate exhibits; the transcript is 294 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

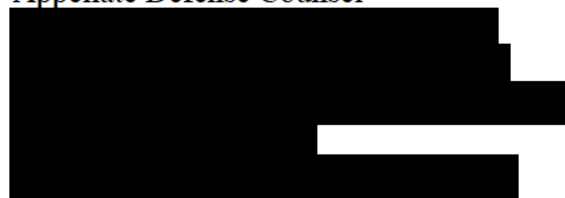
Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of her right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel



CERTIFICATE OF FILING AND SERVICE

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

Respectfully submitted,

A solid black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

A large black rectangular redaction box covering contact information, including a phone number and an email address.

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 3
Staff Sergeant (E-5))	
ALIYAH L. MONROE,	)	No. ACM 25008
United States Air Force.)	
<i>Appellant</i>	)	12 November 2025

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

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

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

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

[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

[REDACTED]

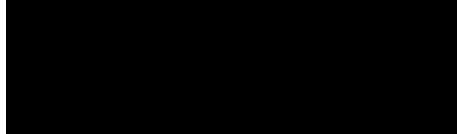
[REDACTED]

[REDACTED]

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

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



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



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

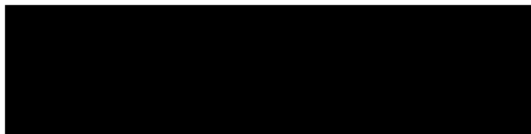
UNITED STATES	)	No. ACM 25008
<i>Appellee</i>)	
)	
v.)	
	)	NOTICE OF PANEL
Aliyah L. MONROE	)	CHANGE
Staff Sergeant (E-5))	
U.S. Air Force)	
<i>Appellant</i>)	

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

ORDERED:

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

This panel letter supersedes all previous panel assignments.



JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

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

UNITED STATES	)	No. ACM 25008
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Aliyah L. MONROE)	
Staff Sergeant (E-5))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 2

On 10 December 2025, counsel for Appellant submitted a Motion for Enlargement of Time (Eighth) requesting an additional 30 days to submit Appellant’s assignments of error brief, which would end on 16 January 2026.

On 16 December 2025, the court held a status conference to discuss the eighth motion for an enlargement of time. Appellant was represented by Major Frederick J. Johnson; Lieutenant Colonel Allen S. Abrams from the Appellate Defense Division was also present. Major Kate E. Lee represented the Government. Appellant’s counsel informed the court he had not begun reviewing the record of trial in the case and confirmed that he made Appellant aware of that fact when Appellant consented to this request for an enlargement of time. The court discussed the progress Appellant’s counsel has made on other higher priority cases and encouraged the Appellate Defense Division to consider redistributing cases where appropriate. Appellant’s counsel stated he anticipates filing three more requests for enlargements of time in this case. The Government maintained its opposition to further enlargements of time.

The court also discussed Appellant’s pending Motion to Attach Document, dated 10 December 2025. The Government stated it does not intend to oppose Appellant’s Motion to Attach Document.

The court has considered Appellant’s motions, the Government’s opposition to Appellant’s Motion for Enlargement of Time (Eighth), case law, and this court’s Rules of Practice and Procedure.

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

ORDERED:

Appellant’s Motion to Attach Document dated 10 December 2025 is **DE-NIED**.

Appellant's Motion for an Enlargement of Time (Eighth) is **GRANTED**.
Appellant's counsel shall file an assignments of error brief **not later than 16
January 2026**.



JACOB B. HOEFERKAMP, Capt, USAF
Chief Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION TO ATTACH
<i>Appellee,</i>	)	DOCUMENT
)	
)	
v.	)	Before Panel No. 3
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,)	
<i>Appellant.</i>	)	10 December 2025

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

Pursuant to Rule 23(b) of the Joint Rules of Appellate Procedure, effective 17 May 2024, and Rule 23.3(b) of this Court’s Rules of Practice and Procedure, effective 23 December 2020, Appellant hereby moves to attach the Declaration at the Appendix to the Record of Trial.

The two governing rules set out above describe different standards, but the end-result under both should be to grant this motion. The Joint Rules require “good cause shown.” JT. CT. CRIM. APP. R. 23(b). This Court’s rules must be consistent with the Joint Rules. JT. CT. CRIM. APP. R. 3; *United States v. Gilley*, 59 M.J. 245, 247 (C.A.A.F. 2004). This Court’s rules require a statement concerning the relevance and necessity of the proposed item. A.F. CT. CRIM. APP. R. 23.3(b).

There is good cause to attach the proposed declaration because it is relevant and necessary to resolving Appellant’s Motion for Enlargement of Time (Eighth), which requires a showing of exceptional circumstances in accordance with this Court’s previous order. Order, *United States v. Monroe*, No. ACM 25008 (A.F. Ct. Crim. App. Apr. 8, 2025). In at least one order, this Court suggested that “established evidence of government-caused staff shortages in the Appellate Defense Division” was needed to show why “routine workload” supports a motion for an

enlargement of time to file an appellant's initial assignments of error. Order at 2 n.3, *United States v. Evangelista*, No. ACM 40531 (A.F. Ct. Crim. App. Dec. 6, 2024). The proposed document provides that evidence.

As such, the proposed document is relevant and necessary, and there is good cause to grant this motion to attach a document.

Respectfully Submitted,

A solid black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

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

Counsel for Appellant

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing and the Appendix were delivered by e-mail to the Court and served on the Government Trial and Appellate Operations Division on 10 December 2025.

[REDACTED]

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (EIGHTH)
)	
v.	)	Before Panel No. 3
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,	)	10 December 2025
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an eighth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **16 January 2026**. The record of trial was docketed with this Court on 21 January 2025. The Government forwarded the record of trial to this Court on 13 February 2025. From the date of docketing to the present date, 323 days have elapsed. On the date requested, 360 days will have elapsed. From the date the Court received the record of trial to when this enlargement of time, if granted, would end, 337 days will have elapsed.

On 18–19 March 2024, a special court-martial consisting of a military judge alone at Cannon Air Force Base, New Mexico, convicted Appellant, contrary to her pleas, of one charge and one specification of absence without leave in violation of Article 86, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 886. R. at 173; Record of Trial (ROT) Vol. 1, Entry of Judgment, 23 April 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-2, and confinement for seventy-seven days. R. at 190; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Aliyah L. Monroe*, 5 April 2024.

The record of trial is four volumes consisting of four prosecution exhibits and twenty-one appellate exhibits; the transcript is 194 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing thirty-three clients; ten clients are pending initial AOE's before this Court. Additionally, six clients have upcoming petitions for grant of review and/or supplements to the petitions, and another client has an upcoming oral argument, all before the United States Court of Appeals for the Armed Forces (CAAF). Four additional clients have upcoming petitions for a writ of certiorari before the Supreme Court of the United States.¹ Twelve matters currently have priority over this case:

- 1) *United States v. Zhong*, ACM 40354, USCA Dkt. No. 24-0146/AF – ACM 40411, USCA Dkt. No. 25-0011/AF – The record of trial is four volumes consisting of 14 prosecution exhibits, 11 defense exhibits, 12 appellate exhibits, and one court exhibit; the transcript is 482 pages. Undersigned counsel has drafted a petition for a writ of certiorari to the Supreme Court of the United States in this case.
- 2) *United States v. Simmons*, ACM 40658 – The record of trial is four volumes consisting of five prosecution exhibits, four defense exhibits, three court exhibits, and thirty-eight

¹ Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a four-page reply to the Government's answer to the supplement to the petition for grant of review to the CAAF in *U.S. v. Adams*, ACM 22018, USCA Dkt. No. 25-0270/AF; completed his review of the seven-volume record of trial and prepared and filed a three-page AOE in *U.S. v. Polly*, ACM 40709; petitioned the CAAF for a grant of review and prepared and filed a six-page supplement to the petition in *U.S. v. Haymond*, ACM 40588, USCA Dkt. No. 26-0035/AF; drafted a thirty-seven-page petition for a writ of certiorari in *Zhong v. U.S.*, ACM 40354, USCA Dkt. No. 24-0146/AF; petitioned the CAAF for a grant of review and began drafting the supplement to the petition in *U.S. v. Simmons*, ACM 40658, USCA Dkt. No. 26-0049/AF; continued reviewing the ten-volume record of trial in *U.S. v. Gossett*, ACM 40715; and participated in three practice oral arguments for two additional cases. Additionally, counsel was off for the Veterans Day holiday and was on leave on 22–29 November 2025, a period that included the Thanksgiving holiday.

- appellate exhibits; the transcript is 248 pages. Undersigned counsel has petitioned the CAAF for a grant of review and is drafting the supplement to the petition in this case.
- 3) *United States v. Keilberg*, ACM 40601 – The record of trial is four volumes consisting of thirteen prosecution exhibits, one defense exhibit, and seven appellate exhibits; the transcript is 118 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.
 - 4) *United States v. Martinez*, ACM 39903 – The record of trial is thirteen volumes consisting of eleven prosecution exhibits, twenty-four defense exhibits, and eighty-one appellate exhibits; the transcript is 1134 pages. Undersigned counsel was recently detailed to this case and is reviewing the record in preparation for petitioning the CAAF for a grant of review.
 - 5) *United States v. Gossett*, ACM 40715 – The record of trial is ten volumes consisting of seven prosecution exhibits, seven defense exhibits, one court exhibit, and seventy appellate exhibits; the transcript is 1076 pages. Undersigned counsel is reviewing the record of trial in this case.
 - 6) *United States v. Penninga*, ACM 40714 – The electronic record of trial is three volumes consisting of sixteen prosecution exhibits, three defense exhibits, one court exhibit, and seventy-three appellate exhibits; the transcript is 822 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
 - 7) *United States v. Casillas*, ACM 40551 – The record of trial is ten volumes consisting of nineteen prosecution exhibits, four defense exhibits, and sixty-five appellate exhibits; the transcript is 1627 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.

- 8) *United States v. Driskill*, ACM 39889 (rem) – The record of trial is fourteen volumes consisting of fourteen prosecution exhibits, four defense exhibits, and 169 appellate exhibits; the transcript is 2,062 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.
- 9) *United States v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF – The record of trial is eight volumes consisting of 11 prosecution exhibits, nine defense exhibits, one court exhibit, and 71 appellate exhibits; the transcript is 703 pages. Undersigned counsel is preparing to present oral argument to the CAAF as lead counsel in this case on 13 January 2026.
- 10) *United States v. Casillas*, ACM 40499 (f rev) – The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Undersigned counsel is reviewing the record of trial in this case.
- 11) *United States v. Her*, ACM 40747 – The electronic record of trial is eleven volumes consisting of eleven prosecution exhibits, fourteen defense exhibits, two court exhibits, and sixty-seven appellate exhibits; the transcript is 961 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 12) *United States v. Carey*, ACM S32806 – The electronic record of trial is five volumes consisting of seven prosecution exhibits, six defense exhibits, and thirty-seven appellate exhibits; the transcript is 294 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

On 8 April 2025, this Court issued an order stating that “any future requests for enlargements of time that, if granted, would expire more than 330 days after docketing, will not

be granted absent exceptional circumstances.” Order, *United States v. Monroe*, No. ACM 25008 (A.F. Ct. Crim. App. Apr. 8, 2025). Since this motion for enlargement of time, if granted, would expire 360 days after docketing, exceptional circumstances must be shown in accordance with the Court’s order.

Undersigned counsel is willing to gain the necessary familiarity with the record to submit assignments of error prior to the filing deadline, and his limited progress so far is not a deliberate tactical decision to create an appellate issue. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008). But, as can be seen by the Declaration of the Appellate Defense Division’s Deputy Chief, he is impeded in doing so for reasons that amount to staffing shortages and, in turn, high workload demands on undersigned counsel. *See Decl.* at 1-6. The crux of these workload issues is that the Appellate Defense Division’s workload is up, but its staff to carry out that work remains largely unchanged.

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

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

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

As noted in *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998), there is no substitute for the briefing by appellate defense counsel on behalf of an individual appellant, even considering this Court's broad mandate for independent review. Undersigned counsel regularly

and continually examines his docket, in concert with supervisory counsel within the Appellate Defense Division, to assess the possibility of assigning additional counsel to expedite review of his cases. This regular assessment of dockets has previously resulted in the detailing of additional counsel to cases prioritized above this one, which helped expedite undersigned counsel's progress in reviewing this case. However, no additional counsel has been identified for this case.

Having been tasked with doing substantially more work with the same resources, undersigned counsel's docket is such that the ordinary workload precludes—and has precluded—undersigned counsel from finalizing review and briefing of Appellant's case. This is despite undersigned counsel regularly working at night, on weekends, and while on leave. The workload is to a degree that it may warrant scrutiny of what The Judge Advocate General is doing to ameliorate it. *See Roach*, 66 M.J. at 418; *Moreno*, 63 M.J. at 137. The circumstances described here are exceptional, but not because they are new or previously unknown. They are exceptional because they demonstrate a task saturation brought about by numerous duties that often have conflicting timelines. These duties necessitate difficult prioritizations that have resulted in the requests for enlargements of time throughout the life of Appellant's case.

Crucially, the delay in reviewing Appellant's record necessitated by the prioritization of other matters is *through no fault of Appellant*. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of her right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel



CERTIFICATE OF FILING AND SERVICE

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

Respectfully submitted,

A solid black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT’S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Staff Sergeant (E-5)	)	Before Panel No. 3
ALIYAH L. MONROE,)	
United States Air Force,	)	No. ACM 25008
<i>Appellant.</i>)	
	)	12 December 2025
)	

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

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

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

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

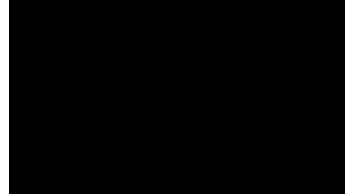


KATE E. LEE, Maj, USAF
Appellate Government Counsel



CERTIFICATE OF FILING AND SERVICE

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



KATE E. LEE, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (NINTH)
)	
v.	)	Before Panel No. 2
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,	)	8 January 2026
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a ninth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **15 February 2026**. The record of trial was docketed with this Court on 21 January 2025. The Government forwarded the record of trial to this Court on 13 February 2025. From the date of docketing to the present date, 352 days have elapsed. On the date requested, 390 days will have elapsed. From the date the Court received the record of trial to when this enlargement of time, if granted, would end, 367 days will have elapsed.

On 18–19 March 2024, a special court-martial consisting of a military judge alone at Cannon Air Force Base, New Mexico, convicted Appellant, contrary to her pleas, of one charge and one specification of absence without leave in violation of Article 86, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 886. R. at 173; Record of Trial (ROT) Vol. 1, Entry of Judgment, 23 April 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-2, and confinement for seventy-seven days. R. at 190; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Aliyah L. Monroe*, 5 April 2024.

The record of trial is four volumes consisting of four prosecution exhibits and twenty-one appellate exhibits; the transcript is 194 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing twenty-nine clients; ten clients are pending initial AOE's before this Court. Additionally, five clients have upcoming petitions for grant of review and/or supplements to the petitions, and two clients have upcoming oral arguments, all before the United States Court of Appeals for the Armed Forces (CAAF). Four additional clients have upcoming petitions for a writ of certiorari before the Supreme Court of the United States.¹ Twelve matters currently have priority over this case:

- 1) *United States v. Martinez*, ACM 39903, USCA Dkt. No. 26-0073/AF – The record of trial is thirteen volumes consisting of eleven prosecution exhibits, twenty-four defense exhibits, and eighty-one appellate exhibits; the transcript is 1134 pages. Undersigned counsel has petitioned the CAAF for a grant of review and is drafting the supplement to the petition in this case.

¹ Since the filing of Appellant's last request for an enlargement of time, counsel prepared and filed a thirty-seven-page petition for a writ of certiorari to the Supreme Court of the United States in *Zhong v. U.S.*, ACM 40354, USCA Dkt. No. 24-0146/AF; prepared and filed a five-page supplement to the petition for grant of review at the CAAF in *U.S. v. Simmons*, ACM 40658, USCA Dkt. No. 26-0049/AF; continued reviewing the ten-volume record of trial and prepared and filed a consent motion to examine sealed materials in *U.S. v. Gossett*, ACM 40715; petitioned the CAAF for a grant of review and prepared and filed a ten-page supplement to the petition in *U.S. v. Keilberg*, ACM 40601, USCA Dkt. No. 26-0065/AF; prepared and filed an application for extension of time to file a petition for a writ of certiorari at the Supreme Court of the United States in *Sherman v. U.S.*, ACM 40486, USCA Dkt. No. 25-0209/AF; petitioned the CAAF for a grant of review and began drafting the supplement to the petition in *U.S. v. Martinez*, ACM 39903, USCA Dkt. No. 26-0073/AF; conducted two practice oral arguments for *U.S. v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF; drafted a request for the officer performing the duties of The Judge Advocate General to certify issues to the CAAF in *U.S. v. Casillas*, ACM 40551; petitioned the CAAF for a grant of review in *U.S. v. Driskill*, ACM 39889; and participated in three practice oral arguments for two additional cases. Additionally, counsel was TDY on 11–12 December 2025 and was off for the Christmas and New Year's Day holidays.

- 2) *United States v. Casillas*, ACM 40551 – The record of trial is ten volumes consisting of nineteen prosecution exhibits, four defense exhibits, and sixty-five appellate exhibits; the transcript is 1627 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case, and the officer performing the duties of The Judge Advocate General certified three issues in this case to the CAAF.
- 3) *United States v. Driskill*, ACM 39889 (rem) – The record of trial is fourteen volumes consisting of fourteen prosecution exhibits, four defense exhibits, and 169 appellate exhibits; the transcript is 2,062 pages. Undersigned counsel has petitioned the CAAF for a grant of review in this case.
- 4) *United States v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF – The record of trial is eight volumes consisting of 11 prosecution exhibits, nine defense exhibits, one court exhibit, and 71 appellate exhibits; the transcript is 703 pages. Undersigned counsel is preparing to present oral argument to the CAAF as lead counsel in this case on 13 January 2026.
- 5) *United States v. Gossett*, ACM 40715 – The record of trial is ten volumes consisting of seven prosecution exhibits, seven defense exhibits, one court exhibit, and seventy appellate exhibits; the transcript is 1076 pages. Undersigned counsel is reviewing the record of trial in this case.
- 6) *United States v. Penninga*, ACM 40714 – The electronic record of trial is three volumes consisting of sixteen prosecution exhibits, three defense exhibits, one court exhibit, and seventy-three appellate exhibits; the transcript is 822 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

- 7) *Sherman v. United States*, ACM 40486, USCA Dkt. No. 25-0209/AF – The record of trial is five volumes consisting of seventeen prosecution exhibits, twelve defense exhibits, one court exhibit, and twenty-five appellate exhibits; the transcript is 469 pages. Undersigned counsel is preparing to petition the Supreme Court of the United States for a writ of certiorari in this case.
- 8) *United States v. Navarro Aguirre*, ACM 40354 – The record of trial is nine volumes consisting of fourteen prosecution exhibits, sixteen defense exhibits, one court exhibit, and forty-seven appellate exhibits; the transcript is 896 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.
- 9) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.
- 10) *United States v. Casillas*, ACM 40499 (f rev) – The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Undersigned counsel is reviewing the record of trial in this case.
- 11) *United States v. Her*, ACM 40747 – The electronic record of trial is eleven volumes consisting of eleven prosecution exhibits, fourteen defense exhibits, two court exhibits, and sixty-seven appellate exhibits; the transcript is 961 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 12) *United States v. Carey*, ACM S32806 – The electronic record of trial is five volumes consisting of seven prosecution exhibits, six defense exhibits, and thirty-seven

appellate exhibits; the transcript is 294 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

On 8 April 2025, this Court issued an order stating that “any future requests for enlargements of time that, if granted, would expire more than 330 days after docketing, will not be granted absent exceptional circumstances.” Order, *United States v. Monroe*, No. ACM 25008 (A.F. Ct. Crim. App. Apr. 8, 2025). Since this motion for enlargement of time, if granted, would expire 390 days after docketing, exceptional circumstances must be shown in accordance with the Court’s order.

Undersigned counsel is willing to gain the necessary familiarity with the record to submit assignments of error prior to the filing deadline, and his limited progress so far is not a deliberate tactical decision to create an appellate issue. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008). But he is impeded in doing so for reasons that amount to staffing shortages and, in turn, high workload demands on undersigned counsel. The crux of these workload issues is that the Appellate Defense Division’s workload is up, but its staff to carry out that work remains largely unchanged.

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

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

Good cause for granting this motion is even more evident in light of the Appellate Defense Division's multi-faceted efforts to mitigate its workload strain. Multiple long-term absences were filled through support by reservists trained for and experienced in appellate practice. In 2023, the Appellate Defense Division sought a legislative change to alleviate its workload but was unsuccessful. Also in 2023, the Appellate Defense Division requested eight additional active-duty personnel. One civilian has been permanently provided, starting work on 16 December 2024. The Division gained one additional active-duty counsel in 2025, but it is unclear whether

that is intended as a permanent additional billet. In 2024, the Appellate Defense Division again requested eight additional active-duty personnel.

As noted in *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998), there is no substitute for the briefing by appellate defense counsel on behalf of an individual appellant, even considering this Court's broad mandate for independent review. Undersigned counsel regularly and continually examines his docket, in concert with supervisory counsel within the Appellate Defense Division, to assess the possibility of assigning additional counsel to expedite review of his cases. This regular assessment of dockets has previously resulted in the detailing of additional counsel to cases prioritized above this one, which helped expedite undersigned counsel's progress in reviewing this case. However, no additional counsel has been identified for this case.

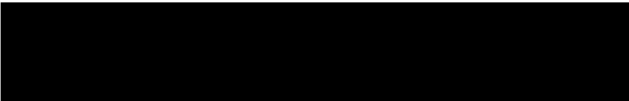
Having been tasked with doing substantially more work with the same resources, undersigned counsel's docket is such that the ordinary workload precludes—and has precluded—undersigned counsel from finalizing review and briefing of Appellant's case. This is despite undersigned counsel regularly working at night, on weekends, and while on leave. The workload is to a degree that it may warrant scrutiny of what The Judge Advocate General is doing to ameliorate it. See *Roach*, 66 M.J. at 418; *Moreno*, 63 M.J. at 137. The circumstances described here are exceptional, but not because they are new or previously unknown. They are exceptional because they demonstrate a task saturation brought about by numerous duties that often have conflicting timelines. These duties necessitate difficult prioritizations that have resulted in the requests for enlargements of time throughout the life of Appellant's case.

Crucially, the delay in reviewing Appellant's record necessitated by the prioritization of other matters is *through no fault of Appellant*. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors.

Appellant was advised of her right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 8 January 2026.

Respectfully submitted,

A large black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

A large black rectangular redaction box covering the contact information of Frederick J. Johnson.

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 2
Staff Sergeant (E-5))	
ALIYAH L. MONROE,	)	No. ACM 25008
United States Air Force.)	
<i>Appellant</i>	)	12 January 2026

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 367 days in length. Appellant’s over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards.

Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 6 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not started review of the record of trial at this late stage of the appellate process.

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

[REDACTED]

VANESSA BAIROS, Maj, USAF
Appellate Government Counsel

[REDACTED]

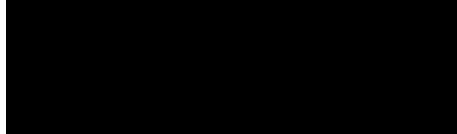
[REDACTED]

[REDACTED]

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 12 January 2026.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



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

UNITED STATES	)	No. ACM 25008
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Aliyah L. MONROE)	
Staff Sergeant (E-5))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 2

On 8 February 2026, counsel for Appellant submitted a Motion for Enlargement of Time (Tenth) requesting an additional 30 days to submit Appellant’s assignments of error. The Government opposed the motion and noted that “[i]f Appellant’s new delay request is granted, the defense delay in this case will be 397 days in length.”

On 12 February 2026, the court held a status conference to discuss the progress of this case. Appellant was represented by Major Frederick J. Johnson; Lieutenant Colonel Allen S. Abrams from the Appellate Defense Division was also present. Major Vanessa Bairos represented the Government. In response to questions from the court, Major Johnson indicated he had done his initial triage of the case, had completed a baseline review, and had consulted with his client. Major Johnson further indicated he likely would not be able to complete his review of the record of trial for a couple more months, necessitating two to three more enlargements of time. Lt Col Abrams indicated the Appellate Defense Division has recently reassigned cases to enable their counsel to focus on some of the older cases and to facilitate summer manning rotations. Major Bairos did not dispute any representation made by the Defense and stands by her submitted opposition to the 8 February 2026 Motion for Enlargement of Time.

Accordingly, it is by the court on this 12th day of February, 2026,

ORDERED:

Appellant’s Motion for Enlargement of Time (Tenth) is **GRANTED**. Appellant shall file any assignments of error not later than **17 March 2026**.

Appellant's counsel is advised that given the number of enlargements granted thus far, the court will continue to closely examine any further requests for an enlargement of time.



FOR THE COURT



AGNIESZKA M. GAERTNER, Capt, USAF
Commissioner

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (TENTH)
)	
v.	)	Before Panel No. 2
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,	)	8 February 2026
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a tenth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **17 March 2026**. The record of trial was docketed with this Court on 21 January 2025. The Government forwarded the record of trial to this Court on 13 February 2025. From the date of docketing to the present date, 383 days have elapsed. On the date requested, 420 days will have elapsed. From the date the Court received the record of trial to when this enlargement of time, if granted, would end, 397 days will have elapsed.

On 18–19 March 2024, a special court-martial consisting of a military judge alone at Cannon Air Force Base, New Mexico, convicted Appellant, contrary to her pleas, of one charge and one specification of absence without leave in violation of Article 86, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 886. R. at 173; Record of Trial (ROT) Vol. 1, Entry of Judgment, 23 April 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-2, and confinement for seventy-seven days. R. at 190; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Aliyah L. Monroe*, 5 April 2024.

The record of trial is four volumes consisting of four prosecution exhibits and twenty-one appellate exhibits; the transcript is 194 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing twenty-seven clients; ten clients are pending initial AOE's before this Court. Additionally, two clients have upcoming petitions for grant of review and/or supplements to the petitions before the United States Court of Appeals for the Armed Forces (CAAF). Three additional clients have upcoming petitions for a writ of certiorari before the Supreme Court of the United States.¹ Eight matters currently have priority over this case:

- 1) *United States v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 26-0100/AF – The record of trial is nine volumes consisting of fourteen prosecution exhibits, sixteen defense exhibits, one court exhibit, and forty-seven appellate exhibits; the transcript is 896 pages. Undersigned counsel has petitioned the CAAF for a grant of review and drafted the supplement to the petition in this case.

¹ Since the filing of Appellant's last request for an enlargement of time, counsel continued reviewing the ten-volume record of trial in *U.S. v. Gossett*, ACM 40715; prepared and filed a twenty-one-page supplement to the petition for grant of review to the CAAF in *U.S. v. Martinez*, ACM 39903, USCA Dkt. No. 26-0073/AF; conducted a practice oral argument and presented oral argument before the CAAF as lead counsel in *U.S. v. Kershaw*, ACM 40455, USCA Dkt. No. 25-0177/AF; petitioned the CAAF for a grant of review and prepared and filed a fourteen-page supplement to the petition in *U.S. v. Casillas*, ACM 40551, USCA Dkt. No. 26-0092/AF; prepared and filed a twenty-eight-page supplement to the petition for grant of review to the CAAF in *U.S. v. Driskill*, ACM 39889, USCA Dkt. No. 26-0087/AF; petitioned the CAAF for a grant of review and drafted an eight-page supplement to the petition in *U.S. v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 26-0100/AF; drafted an eighteen-page petition for a writ of certiorari to the Supreme Court of the United States in *Sherman v. U.S.*, ACM 40486, USCA Dkt. No. 25-0209/AF; prepared and filed an application for extension of time to file a petition for a writ of certiorari at the Supreme Court of the United States in *Soloshenko, et al. v. United States*; and participated in six practice oral arguments for three additional cases. Additionally, counsel was on leave on 6 February 2026 and was off for the Birthday of Martin Luther King, Jr. holiday.

- 2) *Sherman v. United States*, ACM 40486, USCA Dkt. No. 25-0209/AF – The record of trial is five volumes consisting of seventeen prosecution exhibits, twelve defense exhibits, one court exhibit, and twenty-five appellate exhibits; the transcript is 469 pages. Undersigned counsel has drafted a petition for a writ of certiorari to the Supreme Court of the United States in this case.
- 3) *United States v. Gossett*, ACM 40715 – The record of trial is ten volumes consisting of seven prosecution exhibits, seven defense exhibits, one court exhibit, and seventy appellate exhibits; the transcript is 1076 pages. Undersigned counsel is reviewing the record of trial in this case.
- 4) *United States v. Banks*, ACM 24057 – The record of trial is seven volumes consisting of ten prosecution exhibits, sixteen defense exhibits, and thirty appellate exhibits; the transcript is 985 pages. Undersigned counsel is preparing to petition the CAAF for a grant of review in this case.
- 5) *United States v. Penninga*, ACM 40714 – The electronic record of trial is three volumes consisting of sixteen prosecution exhibits, three defense exhibits, one court exhibit, and seventy-three appellate exhibits; the transcript is 822 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 6) *United States v. Casillas*, ACM 40499 (f rev) – The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Undersigned counsel is reviewing the record of trial in this case.
- 7) *United States v. Her*, ACM 40747 – The electronic record of trial is eleven volumes consisting of eleven prosecution exhibits, fourteen defense exhibits, two court exhibits,

and sixty-seven appellate exhibits; the transcript is 961 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

- 8) *United States v. Carey*, ACM S32806 – The electronic record of trial is five volumes consisting of seven prosecution exhibits, six defense exhibits, and thirty-seven appellate exhibits; the transcript is 294 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

On 8 April 2025, this Court issued an order stating that “any future requests for enlargements of time that, if granted, would expire more than 330 days after docketing, will not be granted absent exceptional circumstances.” Order, *United States v. Monroe*, No. ACM 25008 (A.F. Ct. Crim. App. Apr. 8, 2025). Since this motion for enlargement of time, if granted, would expire 420 days after docketing, exceptional circumstances must be shown in accordance with the Court’s order.

Undersigned counsel is willing to gain the necessary familiarity with the record to submit assignments of error prior to the filing deadline, and his limited progress so far is not a deliberate tactical decision to create an appellate issue. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008). But he is impeded in doing so for reasons that amount to staffing shortages and, in turn, high workload demands on undersigned counsel. The crux of these workload issues is that the Appellate Defense Division’s workload is up, but its staff to carry out that work remains largely unchanged.

The Appellate Defense Division has the highest volume of cases pending initial briefing before this Court since 2017, but the demands on the Division’s counsel are greater in today’s cases because records of trial now are between twenty-five and thirty-five percent longer than those of 2017, based solely on their transcript pages. The demand placed by this heightened

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

Good cause for granting this motion is even more evident in light of the Appellate Defense Division's multi-faceted efforts to mitigate its workload strain. Multiple long-term absences were filled through support by reservists trained for and experienced in appellate practice. In 2023, the Appellate Defense Division sought a legislative change to alleviate its workload but was

unsuccessful. Also in 2023, the Appellate Defense Division requested eight additional active-duty personnel. One civilian has been permanently provided, starting work on 16 December 2024. The Division gained one additional active-duty counsel in 2025, but it is unclear whether that is intended as a permanent additional billet. In 2024, the Appellate Defense Division again requested eight additional active-duty personnel.

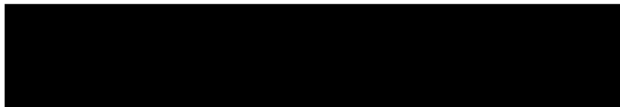
As noted in *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998), there is no substitute for the briefing by appellate defense counsel on behalf of an individual appellant, even considering this Court's broad mandate for independent review. Undersigned counsel regularly and continually examines his docket, in concert with supervisory counsel within the Appellate Defense Division, to assess the possibility of assigning additional counsel to expedite review of his cases. This regular assessment of dockets has previously resulted in the detailing of additional counsel to cases prioritized above this one, which helped expedite undersigned counsel's progress in reviewing this case. However, no additional counsel has been identified for this case.

Having been tasked with doing substantially more work with the same resources, undersigned counsel's docket is such that the ordinary workload precludes—and has precluded—undersigned counsel from finalizing review and briefing of Appellant's case. This is despite undersigned counsel regularly working at night, on weekends, and while on leave. The workload is to a degree that it may warrant scrutiny of what The Judge Advocate General is doing to ameliorate it. See *Roach*, 66 M.J. at 418; *Moreno*, 63 M.J. at 137. The circumstances described here are exceptional, but not because they are new or previously unknown. They are exceptional because they demonstrate a task saturation brought about by numerous duties that often have conflicting timelines. These duties necessitate difficult prioritizations that have resulted in the requests for enlargements of time throughout the life of Appellant's case.

Crucially, the delay in reviewing Appellant's record necessitated by the prioritization of other matters is *through no fault of Appellant*. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of her right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 8 February 2026.

Respectfully submitted,

A large black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

A large black rectangular redaction box covering the contact information of Frederick J. Johnson.

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 2
Staff Sergeant (E-5))	
ALIYAH L. MONROE,	)	No. ACM 25008
United States Air Force.)	
<i>Appellant</i>	)	10 February 2026

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 397 days in length. Appellant’s over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 5 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not started review of the record of trial at this late stage of the appellate process.

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

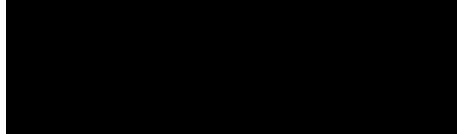


VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 10 February 2026.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (ELEVENTH)
)	
v.	)	Before Panel No. 2
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,	)	9 March 2026
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an eleventh enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **16 April 2026**. The record of trial was docketed with this Court on 21 January 2025. The Government forwarded the record of trial to this Court on 13 February 2025. From the date of docketing to the present date, 412 days have elapsed. On the date requested, 450 days will have elapsed. From the date the Court received the record of trial to when this enlargement of time, if granted, would end, 427 days will have elapsed.

On 18–19 March 2024, a special court-martial consisting of a military judge alone at Cannon Air Force Base, New Mexico, convicted Appellant, contrary to her pleas, of one charge and one specification of absence without leave in violation of Article 86, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 886. R. at 173; Record of Trial (ROT) Vol. 1, Entry of Judgment, 23 April 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-2, and confinement for seventy-seven days. R. at 190; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Aliyah L. Monroe*, 5 April 2024.

The record of trial is four volumes consisting of four prosecution exhibits and twenty-one appellate exhibits; the transcript is 194 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently representing twenty-six clients; nine clients are pending initial AOE's before this Court. Additionally, one client has an upcoming answer brief before the United States Court of Appeals for the Armed Forces (CAAF). Three additional clients have an upcoming consolidated petition for a writ of certiorari before the Supreme Court of the United States.¹ Six matters currently have priority over this case:

- 1) *United States v. Gossett*, ACM 40715 – The record of trial is ten volumes consisting of seven prosecution exhibits, seven defense exhibits, one court exhibit, and seventy appellate exhibits; the transcript is 1076 pages. Undersigned counsel has reviewed the record of trial and begun drafting the AOE in this case.
- 2) *United States v. Casillas*, ACM 40551, USCA Dkt. No. 26-0096/AF – The record of trial is ten volumes consisting of nineteen prosecution exhibits, four defense exhibits, and sixty-five appellate exhibits; the transcript is 1627 pages. Undersigned counsel is drafting an answer brief to the CAAF on the certified issues in this case.

¹ Since the filing of Appellant's last request for an enlargement of time, counsel completed his review of the ten-volume record of trial (except sealed materials) and began drafting the AOE in *U.S. v. Gossett*, ACM 40715; prepared and filed a two-page reply to the Government's answer to the supplement to the petition for grant of review in *U.S. v. Casillas*, ACM 40551, USCA Dkt. No. 26-0092/AF; prepared and filed an eight-page supplement to the petition for grant of review in *U.S. v. Navarro Aguirre*, ACM 40354, USCA Dkt. No. 26-0100/AF; prepared and filed a twenty-one-page petition for a writ of certiorari to the Supreme Court of the United States in *Sherman v. U.S.*, ACM 40486, USCA Dkt. No. 25-0209/AF; petitioned the CAAF for a grant of review and prepared and filed a seventeen-page supplement to the petition in *U.S. v. Banks*, ACM 24057, USCA Dkt. No. 26-0127/AF; and participated in seven practice oral arguments for three additional cases. Additionally, counsel was off for the Washington's Birthday holiday.

- 3) *Soloshenko, et al. v. United States* – This petition for a writ of certiorari to the Supreme Court of the United States consolidates five cases that are all seeking certiorari for the same issue. Undersigned counsel is the counsel of record for this consolidated petition.
- 4) *United States v. Penninga*, ACM 40714 – The electronic record of trial is three volumes consisting of sixteen prosecution exhibits, three defense exhibits, one court exhibit, and seventy-three appellate exhibits; the transcript is 822 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.
- 5) *United States v. Casillas*, ACM 40499 (f rev) – The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170 appellate exhibits; the transcript is 1,957 pages. Undersigned counsel is reviewing the record of trial in this case.
- 6) *United States v. Carey*, ACM S32806 – The electronic record of trial is five volumes consisting of seven prosecution exhibits, six defense exhibits, and thirty-seven appellate exhibits; the transcript is 294 pages. Undersigned counsel has not yet begun reviewing the record of trial in this case.

On 8 April 2025, this Court issued an order stating that “any future requests for enlargements of time that, if granted, would expire more than 330 days after docketing, will not be granted absent exceptional circumstances.” Order, *United States v. Monroe*, No. ACM 25008 (A.F. Ct. Crim. App. Apr. 8, 2025). Since this motion for enlargement of time, if granted, would expire 450 days after docketing, exceptional circumstances must be shown in accordance with the Court’s order.

Undersigned counsel is willing to gain the necessary familiarity with the record to submit assignments of error prior to the filing deadline, and his limited progress so far is not a deliberate

tactical decision to create an appellate issue. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008). But he is impeded in doing so for reasons that amount to staffing shortages and, in turn, high workload demands on undersigned counsel. The crux of these workload issues is that the Appellate Defense Division's workload is up, but its staff to carry out that work remains largely unchanged.

The Appellate Defense Division has the highest volume of cases pending initial briefing before this Court since 2017, but the demands on the Division's counsel are greater in today's cases because records of trial now are between twenty-five and thirty-five percent longer than those of 2017, based solely on their transcript pages. The demand placed by this heightened amount of review per case has been compounded by a higher volume of clients, with the 2022 broadening of direct appeals in Article 65 requiring record-review and consultation for each eligible client, including Appellant, and with those direct appeals docketed with this Court amounting to approximately only forty percent of this pool of clients. Over this same time since the December 2022 law change, the Appellate Defense Division faced a high volume of cases before the CAAF, a high volume of interlocutory appeals and writ-petitions, and multiple time-sensitive petitions to the Supreme Court of the United States. All three of these classes of cases are particularly impactful on an attorney's ability to work cases before this Court because of the timelines involved, with interlocutory appeals taking priority and with cases appealed to the CAAF and the Supreme Court subject to strict timeline requirements. 10 U.S.C. §§ 806b(e)(3)(B), 862(b), 867(b); 28 U.S.C. § 2101(c). The workload demands before the Supreme Court are only increasing, with every appellant seeking review at the CAAF now eligible to petition the Supreme Court. Relative to the Court of Appeals for the Armed Forces and the Supreme Court, this Court has substantially greater flexibility to adjust its deadlines and should

do so here. *Compare United States v. Moreno*, 63 M.J. 129, 142 (C.A.A.F. 2006) (setting eighteen months post-docketing with the Court of Criminal Appeals as a trigger for analysis but declining to make it dispositive in light of the possibility of reasonable delay), *with* 10 U.S.C. 867(b), 28 U.S.C. § 2101(c).

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

As noted in *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998), there is no substitute for the briefing by appellate defense counsel on behalf of an individual appellant, even considering this Court's broad mandate for independent review. Undersigned counsel regularly and continually examines his docket, in concert with supervisory counsel within the Appellate Defense Division, to assess the possibility of assigning additional counsel to expedite review of his cases. This regular assessment of dockets has previously resulted in the detailing of additional counsel to cases prioritized above this one, which helped expedite undersigned counsel's progress in reviewing this case. However, no additional counsel has been identified for this case.

Having been tasked with doing substantially more work with the same resources, undersigned counsel's docket is such that the ordinary workload precludes—and has precluded—

undersigned counsel from finalizing review and briefing of Appellant's case. This is despite undersigned counsel regularly working at night, on weekends, and while on leave. The workload is to a degree that it may warrant scrutiny of what The Judge Advocate General is doing to ameliorate it. *See Roach*, 66 M.J. at 418; *Moreno*, 63 M.J. at 137. The circumstances described here are exceptional, but not because they are new or previously unknown. They are exceptional because they demonstrate a task saturation brought about by numerous duties that often have conflicting timelines. These duties necessitate difficult prioritizations that have resulted in the requests for enlargements of time throughout the life of Appellant's case.

Crucially, the delay in reviewing Appellant's record necessitated by the prioritization of other matters is *through no fault of Appellant*. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of her right to a timely appeal, was provided an update of the status of counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,



FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Operations Division on 9 March 2026.

Respectfully submitted,

A large black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

A large black rectangular redaction box covering the contact information of Frederick J. Johnson.

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES'
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Staff Sergeant (E-5)	)	Before Panel No. 2
ALIYAH L. MONROE,)	
United States Air Force,	)	No. ACM 25008
<i>Appellant.</i>)	
	)	11 March 2026
)	

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant's new delay request is granted, the defense delay in this case will be 450 days in length. Appellant's over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed more than two thirds of the 18 month standard for this Court to issue a decision, which only leaves about 3 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant's counsel has not started review of the record of trial at this late stage of the appellate process.

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

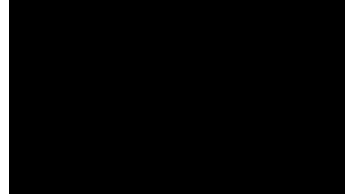


KATE E. LEE, Maj, USAF
Appellate Government Counsel



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 11 March 2026.



KATE E. LEE, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	APPELLANT’S MOTION FOR
<i>Appellee,</i>	)	ENLARGEMENT OF TIME (TWELFTH)
)	
v.	)	Before Panel No. 2
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force,	)	8 April 2026
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a twelfth enlargement of time to file an Assignments of Error (AOE). Appellant requests an enlargement for a period of thirty days, which will end on **16 May 2026**. The record of trial was docketed with this Court on 21 January 2025. The Government forwarded the record of trial to this Court on 13 February 2025. From the date of docketing to the present date, 442 days have elapsed. On the date requested, 480 days will have elapsed. From the date the Court received the record of trial to when this enlargement of time, if granted, would end, 457 days will have elapsed.

On 18–19 March 2024, a special court-martial consisting of a military judge alone at Cannon Air Force Base, New Mexico, convicted Appellant, contrary to her pleas, of one charge and one specification of absence without leave in violation of Article 86, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 886. R. at 173; Record of Trial (ROT) Vol. 1, Entry of Judgment, 23 April 2024 (EOJ). The military judge sentenced Appellant to a reprimand, reduction to the grade of E-2, and confinement for seventy-seven days. R. at 190; EOJ. The convening authority took no action on the findings or the sentence. ROT Vol. 1, Convening Authority Decision on Action – *United States v. Staff Sergeant Aliyah L. Monroe*, 5 April 2024.

The record of trial is four volumes consisting of four prosecution exhibits and twenty-one appellate exhibits; the transcript is 194 pages. Appellant is not currently confined. Undersigned counsel has reviewed approximately twenty percent of the record of trial in this case.

Counsel is currently representing twenty-two clients; five clients are pending initial AOE's before this Court. Additionally, one client has an upcoming oral argument before the United States Court of Appeals for the Armed Forces (CAAF).¹ Two matters currently have priority over this case:

- 1) *United States v. Penninga*, ACM 40714 – The electronic record of trial is three volumes consisting of sixteen prosecution exhibits, three defense exhibits, one court exhibit, and seventy-three appellate exhibits; the transcript is 822 pages. Undersigned counsel has reviewed approximately ninety percent of the record of trial and begun drafting the AOE in this case.
- 2) *United States v. Casillas*, ACM 40499 (f rev) – The record of trial is 14 volumes consisting of 37 prosecution exhibits, three defense exhibits, one court exhibit, and 170

¹ Since the filing of Appellant's last request for an enlargement of time, counsel reviewed approximately twenty percent of the four-volume record of trial in this case; reviewed approximately ninety percent of the three-volume electronic record of trial and began drafting the AOE in *U.S. v. Penninga*, ACM 40714; prepared and filed a sixteen-page AOE in *U.S. v. Gossett*, ACM 40715; prepared and filed a 30-page answer brief on the certified issues to the CAAF in *U.S. v. Casillas*, ACM 40551, USCA Dkt. No. 26-0096/AF; edited and filed a twenty-one-page petition for a writ of certiorari to the Supreme Court of the United States in *Myslow v. U.S.*, ACM 40668; prepared and filed a thirty-five-page consolidated petition for a writ of certiorari to the Supreme Court of the United States in *Soloshenko, et al. v. U.S.*; prepared and filed motions to withdraw as counsel in *U.S. v. Byington*, ACM 40816, *U.S. v. Docker*, ACM 25029, and *U.S. v. Brown*, ACM 25055; prepared and filed a motion to withdraw from appellate review in *U.S. v. Polly*, ACM 40709; and participated in a practice oral argument for an additional case. Additionally, counsel was on temporary duty on 15–27 March 2026 and was on leave on 13–14 and 28 March 2026.

appellate exhibits; the transcript is 1,957 pages. Undersigned counsel is reviewing the record of trial in this case.

On 8 April 2025, this Court issued an order stating that “any future requests for enlargements of time that, if granted, would expire more than 330 days after docketing, will not be granted absent exceptional circumstances.” Order, *United States v. Monroe*, No. ACM 25008 (A.F. Ct. Crim. App. Apr. 8, 2025). Since this motion for enlargement of time, if granted, would expire 480 days after docketing, exceptional circumstances must be shown in accordance with the Court’s order.

Undersigned counsel is willing to gain the necessary familiarity with the record to submit assignments of error prior to the filing deadline, and his limited progress so far is not a deliberate tactical decision to create an appellate issue. *See United States v. Roach*, 66 M.J. 410, 418 (C.A.A.F. 2008). But he is impeded in doing so for reasons that amount to staffing shortages and, in turn, high workload demands on undersigned counsel. The crux of these workload issues is that the Appellate Defense Division’s workload is up, but its staff to carry out that work remains largely unchanged.

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

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

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

As noted in *United States v. May*, 47 M.J. 478, 481 (C.A.A.F. 1998), there is no substitute for the briefing by appellate defense counsel on behalf of an individual appellant, even considering this Court's broad mandate for independent review. Undersigned counsel regularly and continually examines his docket, in concert with supervisory counsel within the Appellate Defense Division, to assess the possibility of assigning additional counsel to expedite review of his cases. This regular assessment of dockets has previously resulted in the detailing of additional counsel to cases prioritized above this one, which helped expedite undersigned counsel's progress in reviewing this case. However, no additional counsel has been identified for this case.

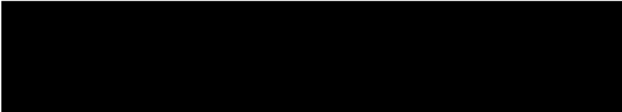
Having been tasked with doing substantially more work with the same resources, undersigned counsel's docket is such that the ordinary workload precludes—and has precluded—undersigned counsel from finalizing review and briefing of Appellant's case. This is despite undersigned counsel regularly working at night, on weekends, and while on leave. The workload is to a degree that it may warrant scrutiny of what The Judge Advocate General is doing to ameliorate it. *See Roach*, 66 M.J. at 418; *Moreno*, 63 M.J. at 137. The circumstances described here are exceptional, but not because they are new or previously unknown. They are exceptional because they demonstrate a task saturation brought about by numerous duties that often have conflicting timelines. These duties necessitate difficult prioritizations that have resulted in the requests for enlargements of time throughout the life of Appellant's case.

Crucially, the delay in reviewing Appellant's record necessitated by the prioritization of other matters is *through no fault of Appellant*. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors. Appellant was advised of her right to a timely appeal, was provided an update of the status of

counsel's progress on Appellant's case, was consulted with regard to enlargements of time, and agrees with necessary requests for enlargements of time, including this request.

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

Respectfully submitted,

A large black rectangular redaction box covering the signature of Frederick J. Johnson.

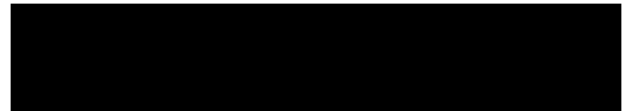
FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

A large black rectangular redaction box covering the address and contact information of Frederick J. Johnson.

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 8 April 2026.

Respectfully submitted,

A large black rectangular redaction box covering the signature of Frederick J. Johnson.

FREDERICK J. JOHNSON, Maj, USAF
Appellate Defense Counsel

A large black rectangular redaction box covering the contact information of Frederick J. Johnson.

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES’
	)	OPPOSITION TO
<i>Appellee,</i>	)	APPELLANT’S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
	)	Before Panel No. 2
Staff Sergeant (E-5))	
ALIYAH L. MONROE,	)	No. ACM 25008
United States Air Force.)	
<i>Appellant</i>	)	9 April 2026

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

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

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant over a year to submit an assignment of error to this Court. If Appellant’s new delay request is granted, the defense delay in this case will be 457 days in length. Appellant’s over year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court’s appellate processing standards. Appellant has already consumed more than two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 3 months combined for the United States and this Court to perform their separate statutory responsibilities. It appears that Appellant’s counsel has not completed review of the record of trial at this late stage of the appellate process.

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

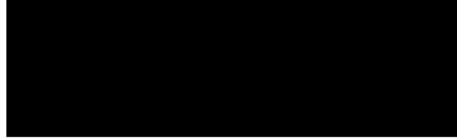
[REDACTED]

VANESSA BAIROS, Maj, USAF

[REDACTED]

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 9 April 2026.



VANESSA BAIROS, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee,

v.

Staff Sergeant (E-5)

Aliyah L. MONROE,

United States Air Force,

Appellant.

MERITS BRIEF

Before Panel No. 2

No. ACM 25008

18 May 2026

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

Submission of Case without Specific Assignments of Error

The undersigned appellate defense counsel attests that he has, on behalf of Staff Sergeant (SSgt) Aliyah L. Monroe, United States Air Force, carefully examined the record of trial. SSgt Monroe does not admit that the findings and sentence are correct in law and fact but submits this case to this Court on its merits with no specific assignments of error.

Respectfully submitted,

[REDACTED]

Frederick J. Johnson
Major, U.S. Air Force
Appellate Defense Counsel

[REDACTED]

APPENDIX

Pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982), SSgt Monroe, through appellate defense counsel, personally requests that this Court consider the following matters:

ASSIGNMENTS OF ERROR

- I. The investigation into Appellant was retaliation for denying non-verbal sexual advances by her supervisor and asking to leave her workplace because she felt it was toxic and unsafe.**
- II. Appellant's conviction is legally and factually insufficient.**
- III. Appellant was subject to double jeopardy.**
- IV. Appellant's conviction violates res judicata.**
- V. Appellant's conviction violates Jurisdiction.**

STATEMENT OF FACTS

In the Spring of 2023, Appellant turned down non-verbal sexual advances by her supervisor. After that, her supervisor began harassing her and giving her paperwork for acts that did not warrant paperwork; one example is not completing an in-squadron computer-based training (CBT) that had an artificial deadline set by the unit's training manager. The Appellant completed the CBT one day after having a meeting at the Chapel with her supervisor about the unprofessional behaviors. The Appellant received paperwork from the CBT and other one-sided accusations from other personnel in the work center. Additionally, one of her coworkers, the only additional female SSgt, signed a false, one-sided statement against her saying she would end her life, though the Appellant, SSgt Monroe, did not state these things. This past incident had been handled by a previous commander, with both Appellant and her coworker receiving paperwork in or around 27 Mar 2023. After this incident occurred, the unit was changed to the squadron of the Wing Staff Agency (WSA) around Apr/May 2023, and the Appellant and the

additional female SSgt had been working together since then in close distance for at least 5 months. From March 2023 to August 2023, the Appellant received back-to-back paperwork for one-sided accusations given by her supervisor; the Appellant witnessed her supervisor stalking her as she went on leave to different parts of the country. For example, when she requested leave during summer 2023, her supervisor would show signs of anger and would have his leave scheduled around the same times while in the same area as her leave; this could look like the Appellant's leave and location in Illinois (IL) around June 2023 and the supervisor's time would be close distance which was Missouri (MO) while his leave dates were the same and/or overlapping. An additional example is the Appellant's leave was in Georgia (GA) and supervisor took time from work around similar or overlapping dates for Florida (FL). These actions and other harassing actions like compounding paperwork and stalking caused the Appellant to ask for removal from her work center around Aug/Sept 2023. After the Appellant's removal, an investigation was initiated on the false accusation that was made by the additional female SSgt though it was already addressed by the previous FSS/CC back in or around 27 Mar 2023. This one-sided and signed MFR was already addressed by the assigned unit commander who had jurisdiction of the paperwork and incident that occurred. However, the WSA comptroller/CC initiated an investigation, five months later, for the **same** accusation made against the Appellant after the Appellant and additional female SSgt were already working in close distance since the incident occurred; there were no additional issues between the Appellant and the additional female SSgt. Later, due to the supervisor's harassment, the Appellant, SSgt Monroe, asked to be removed from her work center. Thereafter, SSgt Monroe was **first** removed from the work center though there were no issues between her and the additional female SSgt. Since the Appellant's removal from the work center, she had worked in a different building and work center from her

supervisor and coworkers; the Appellant had little to no professional or personal contact with her peers. In Nov 2023, an investigation was started based on the previously addressed matter by a different unit commander; this matter was the **same** signed, false, and one-sided statement (in a memorandum for record (MFR)) by the additional female SSgt in Mar/Apr 2023. This is the *res judicata* and double jeopardy nature.

Additionally, in approximately Nov 2023 - Dec 2023, after the Appellant asked to leave her office because it was a hostile work environment and feeling unsafe because of her supervisor, she also experienced harassment and bullying on the job by her coworkers that were influenced by her supervisor; her supervisor's influence also impacted Senior Leadership's position towards her. Late Nov 2023 or Dec 2023, the Appellant filed reports and asked for help, but no one found them substantial; this included inspector general (IG) complaints and equal opportunity (EO) complaints regarding her supervisor and leadership. Some of the complaints stated that Appellant's leadership kept calling her in for frequent unwarranted meetings with them, ordered her to perform a non-randomized drug test, and attend multiple commander directed mental health evaluations (4) in short timeframes. The Appellant also felt harassed based on her medical appointments, with her leadership trying to stop her from going to her appointments through interference or faults with the appointments. For example, the Appellant had to travel long distances for some medical appointments from Cannon AFB, NM to Odessa, TX; this drive was over 3.5hr drive one way, but due to the medical limitations of Cannon AFB and its location, travel was required for certain medical appointments. The Appellant informed her new supervisor (who was provided shortly before leaving her work center) by text of both back-to-back 2-day medical appointments in Odessa, TX (and this medical appointment looked like an appointment on Tuesday then Wednesday). However, after the first day while

communicating with the new supervisor about the appointments, SSgt Monroe was deemed absent without leave (AWOL) with the influence of the WSA/CC leadership. As previously mentioned, Cannon AFB, NM, is known to have Airmen to travel to far distances for proper medical support. On the second day of the medical appointment, the Appellant returned to off-base housing and was met with the Security Forces (SF) officer at the Chavez housing gate. The Security Forces officer told the Appellant that she wanted to be spoken to by her flight chief. The Appellant was alarmed and afraid after the compounding events of her supervisor, peers, WSA/CC and her support team, and the civilian police tracking her vehicle to both medical appointments (this was later found out during the Court-Martial). The last event as the Appellant returned to her home in off-base housing frightened her and caused her to leave her home.

After the Appellant experienced tracking of her medical appointments from her commander and her commander's support team, the Appellant had a surgery that was canceled due to her commander and new supervisor's interference with the medical facility process. The new supervisor continued to text and call the Appellant as she was getting ready and about to undergo surgery. However, the Appellant could not respond until after the event took place. The Appellant was told that she would be reported as AWOL if she did not answer her phone though she could not attend to her phone during her surgery appointment; the appointment was known to her leadership and new supervisor.

The Appellant's experiences with her commander, unit leadership, supervisor, and coworkers created concerns and safety issues. In all, the below is a timeline of the events occurred in order:

- 1.) **In early Mar 2023**, the Appellant held a meeting with her supervisor of unwanted non-verbal sexual advances. The Appellant conducted this meeting at the chaplain at Cannon

AFB, NM. The supervisor was told by the Appellant that she would distance herself from him to remove the appearance of unprofessionalism.

2.) **On or around 27 Mar 2023**, the Appellant received paperwork for missing an in-squadron deadline for a computer-based training (CBT). In the past, these training courses have expired several times, and no paperwork has been given.

3.) **On or around 27 Mar 2023**, the additional female SSgt that the Appellant worked with made a false accusation against the Appellant by stating that the Appellant would end her life. Thereafter, the Appellant and additional female SSgt were both given an administrative action, known as a record of individual counseling (RIC) on DAF IMT 174, regarding the accusation of the Appellant going to end the additional female's life.

4.) **In or around late-Apr 2023**, the Appellant and her coworkers are moved to a new unit under the 27 SOW/WSA. During this time, the Appellant tried to leave her work center by a professional development position (as an instructor), but her supervisor denied the move based on a manning justification; however, he later allowed the additional female SSgt to attend this opportunity for its possible award as an instructor. In or around May 2023, the Appellant asked the WSA/CCF (First Sergeant) for help regarding her supervisor, but he placed her at the library while still requiring her to report to her supervisor. The Appellant was later returned to her work center; however, the matters did not improve.

5.) **On or around 27 June 2023**, the appellant was provided paperwork by her supervisor, because she tried to attend the Professional Development Center (PDC) as the alternate Manpower 101 briefer. In the absence of the additional SSgt female, the Appellant is the assigned alternate of Manpower 101 briefings at the PDC. However, the Appellant's supervisor stated that he told her no, though he never had a conversation with the Appellant

about not being able to brief as she was assigned. There were no reasons or commands given to her to restrict the Appellant from the briefings. The Appellant documented this incident in an MFR.

6.) **In or around July 2023**, the Appellant received additional paperwork for a remark made by her supervisor's supervisor. The appellant asked her Manpower Chief if she could go get gas for her car, but he told her no and to do it during lunch time. The Appellant accepted this, though she saw other peers ask to leave the office for coffee, smoke breaks, or other things after arriving to work. Thereafter, the Appellant went to her car to place other items away, and the supervisor's supervisor got upset and made a one-sided statement toward the Appellant. The Appellant's supervisor wrote her paperwork based on this.

7.) **In or around mid-July 2023**, the Appellant asked her WSA/CCF (First Sergeant) for help again, and he barely placed her at the library. The Appellant had to return to her work center under her supervisor. He also asked the Appellant about the protected communication complaint. The Appellant was later ordered to a Commander Directed Mental Health evaluation.

8.) **In or around late-July 2023**, the Appellant went on leave to her hometown, Albany, Georgia (GA), and her supervisor took a temporary duty assignment (TDY) that was purposed for the officer in charge (OIC); this TDY was located at Hurlburt Field, Florida (FL) with the overlapping dates of the Appellant's leave. Though the supervisor was going to receive the same training sooner, he, instead, took the TDY that was purposed for the OIC. The location of the TDY and the Appellant's leave address is 4 hours away.

9.) **In or around early August 2023**, the Appellant asked for a change of rater/new supervisor. The old supervisor denied her request for a new supervisor. However, the change took place though the Appellant was still in the work center with her old supervisor.

10.) **In Sept 2023**, the Appellant was later moved to a new office center in the education and training building (Bldg. 600) at Cannon AFB, NM. The Appellant interacted with her old supervisor and coworkers in a limited manner for the completion of work tasks.

11.) **Between Sept 2023 – Dec 2023**, the Appellant was ordered to at least four Commander Directed Mental Health evaluations.

12.) **In early or mid-Nov 2023**, an investigation was started by WSA/CC based on a MFR completed by the additional female back in or around 27 Mar 2023. This MFR was resolved under the previous FSS/CC by administrative action. However, the 27 WSA/CC and support staff initiated an investigation into a previously disposed event about seven months later. The Appellant was still working in the office at the education and training building (Bldg. 600) during this initiated investigation, but the Appellant had little to no contact with her supervisor and coworkers. The charge of the investigation was Article 115, Communicating a threat. During the initiation of the investigation, the Appellant was not allowed to use advocacy or confer with a chaplain. Due to the Appellant not having her basic rights and processes met, the Security Forces (SF) investigators allowed the Appellant to leave the mandatory interview. Then a few days later, the Appellant was directed to return to the Security Forces investigator to complete the investigation (or mandatory interview). The Appellant returned, but the second time, they would not allow the Appellant to leave. They detained the Appellant and placed her into custody until she complied with the investigation; the Appellant did not have the opportunity to have counsel of her choice and chaplain services, so the Appellant hesitated with speaking to the SF investigators. The WSA/CC placed the Appellant in pretrial confinement for at least 24 hrs until the Appellant complied with the interview. Thereafter, the Appellant participated for fear. This started the investigation for Article 115, Communicating a threat and a new charge of Article 92,

Failure to Obey. The Appellant was told she was denied permanent change of station (PCS) based on the open investigation.

13.) **Additionally, between late-Nov 2023 to early Dec 2023**, the WSA/CC interfered with the appellant's surgery and medical appointments. The Appellant's surgery was to take around late-Nov 2023 in Clovis, NM; if the surgery was completed, the Appellant would be placed on convalescent leave around 14-21 days, but the surgery could not take place after being canceled. The WSA/CC had not approved the convalescent leave as required before the surgery appointment date. The surgery was canceled. After the cancelation of the surgery, the Appellant requested leave for Thanksgiving, but the Appellant was required to report in to leadership via phone during her leave; the Appellant was also told that she would have to provide a person of contact, or her leave would be denied. The appellant did not take leave.

14.) **In or around early Dec 2023**, the Appellant had a back-to-back appointment in Odessa, TX. The Appellant told her new supervisor about the appointments, which is a 3.5 hr drive one-way, but the Appellant needed to attend both. After the appointments, the Appellant returned to her off-base home on the second day, and as she arrived at the gate, she was told that she was being requested by the SF flight chief. The Appellant had faced several compounding events and was in a fearful state. This caused an additional chain of actions.

15.) **Feb 2022 to Jan 2024**, since the Appellant's arrival to Cannon AFB, NM, at her work center, there had been constant issues regarding her and her supervisor. The Appellant was told personal things about how the supervisor's previously intended fiancé from Georgia (GA) was supposed to marry him, but there was unfaithfulness. Then later in 2023, the supervisor confessed in a casual conversation among other coworkers that he never got over the first girl that he was intended to marry from Georgia (GA) even though he is married to his current wife.

The coworkers present were the additional female, the Appellant (at her desk but nearby to hear), and his friend (same rank). The Appellant has documented several issues that she has had among her peers since she got into the office, but the issues had only grown worse.

Appellant was placed in pretrial confinement on 4 January 2024 for charges of violating UCMJ Articles 85 (Desertion), 92 (Failure to obey order or regulation), and 115 (Communicating a threat), as shown on the confinement order. On 11 January 2024, the appellant had a 7-day pretrial confinement review hearing, and the hearing officer reviewed her case based on different charges than what the Appellant was held for. The newly provided charges that were considered for the Appellant to remain in pretrial confinement during her 7-day pretrial confinement review hearing were different from the charges she was held for. The charges reviewed instead on the 7-day pretrial confinement review were for violations of UCMJ Articles 86 (failure to go and absent without leave) and 87a (fleeing apprehension). These were the new charges on the Pretrial Confinement Charge sheet, but the Pretrial Confinement Review did not review the charges the Appellant was detained and held for. Therefore, the Appellant was unlawfully held in pretrial confinement for different and new charges that she was not noticed or had Article 31 rights read for. The Pretrial Confinement Review officer heard about different charges. In all, due process (Art. 31 rights/new charges), double jeopardy (article 115 double booked), and res judicata (previously disposed action) were reasons that impacted the illegal holding of the Appellant on 11 January 2024.

ARGUMENT

VI. The investigation into Appellant was retaliation and gross abuse of authority for denying non-verbal sexual advances from her supervisor. Her supervisor's influence led to chain-causing events.

The investigation was harassing and retaliative against the Appellant after denying the non-verbal sexual advances of her supervisor. After Appellant turned down her supervisor, he quickly retaliated by harassing her through administrative paperwork and positional influence of his subordinates, peers, and senior leadership. The allegations against the Appellant were unproven. There is no sufficient evidence of AWOL. During the court-martial trial, the Government had the burden of proof but could not prove that the Appellant was in different states while she was alleged to be absent without leave. Two unconfirmed vehicles were tracked, and both vehicles had the same license plate number.

The harassment extended to Appellant's medical care, with her unit's leadership trying to stop her from going to medical appointments and use of leave. The Appellant has filed reports and asked for help from CCF/WSA, EO, and Inspector General (IG), but no one helped. Due to the harassment and bullying by leadership, coworkers, and supervisor, the Appellant felt unsafe at Cannon AFB, NM. This experience resulted in a matter of survival and self-preservation. Therefore, all charges and specifications should be dismissed with prejudice.

VII. Appellant's conviction is not legal; it lacks the burden of proof.

The evidence is legally and factually insufficient to support the Appellant's conviction. In particular, the car in the Government's evidence had the same license plate number as a vehicle they alleged to be hers. Both vehicles were not confirmed to be the Appellant's vehicle. The Government tracked and reported on at least two vehicles with the same license plates. Therefore, the evidence lacks the burden of proof and cannot support AWOL or Desertion (the original charge). The Appellant has had a history of good conduct which is evidenced by time in

service (TIS), enlisted performance reports (EPRs), and the earned good conduct ribbons with longevity. The Appellant has been a team player for a long period in the Air Force and did not sabotage the team. The Appellant has attempted to strengthen ties by planning resiliency events and supporting Suicide Prevention programs as a trainer.

VIII. Appellant was subject to double jeopardy.

Appellant was subject to double jeopardy when she was held in pretrial confinement first for Article 115 (Communicating Threats) and Article 96 (Failure to go) again, but Article 85 (Desertion) was included. Article 115 (Communicating Threats) was investigated in Nov 2023, but on or around 04 Jan 2024 the Appellant was charged again with communicating a threat and was held in pretrial confinement for it back in Nov 2023, but 04 Jan 2024 the Appellant was held in pretrial confinement again for this same charge. By the time of the 7-Day-Review pretrial confinement hearing, the charges changed to violations of Article 86 and 87a for failure to go, absent without leave, and fleeing apprehension. Those were the charges at court-martial, but the confinement order never changed. The new charges were not noticed to the Appellant, but they were held in court-martial with insufficient evidence. The Appellant was charged twice with a total of six charges and held in pretrial confinement for different charges than what they originally put her there for. This was double jeopardy, and the charges should be dismissed.

IX. Appellant's conviction violates res judicata.

Appellant's conviction violated res judicata and abuse of authority; the circumstances or chain of events would not have taken place if the matters regarding the Appellant's supervisor were addressed. The Appellant would not have feared for her life. Therefore, the Appellant's previous unit commander handled the issue that her coworker signed a false statement about. The old (or previous) unit commander had already dealt with the matter by giving both Appellant and her coworker administrative action. The Appellant and her coworker were then working together

for at least 5 months afterwards. However, the Appellant's new commander (WSA/CC) pulled out the old issue that the old commander already dealt with and used the coworker's false, one-sided statement about it to start a new investigation. Since the old commander had already dealt with this situation, using the false report about it to start a new investigation violated res judicata. Therefore, the charges in all should be dismissed with prejudice and the appellant's record cleared of all charges.

X. Appellant's conviction violates Jurisdiction.

The military judge lacked jurisdiction, inappropriate convening authority which required the 27 SOW/CC to act as a convening authority for special courts-martial (SPCMs) but not the Judge Advocate. Due process was not given due to the change of charges, the convening authority, and the court martial held for inapplicable charges (due to no notice). The original charge was Desertion, but the charges were changed during the 7-Day-Pretrial Review hearing that the Appellant was held for. The new charges changed on the date of the 7-Day-Pretrial Review were with no-notice, so the Appellant had continued to be held in pretrial confinement for new and no-notice of charges based on the laws applicable during this time. The charges that were presented as new were not reviewed on pretrial hearing (which were Art. 86 and 87a) and were used to justify pretrial confinement, and the original charges (Art. 85, 92, and 115) were also used for pretrial confinement as the appellant was charged with different charges. In either situation, no review was provided for the charges, and notice was not given during the time of the applicable law. Therefore, the wrong decision was made as the appellant was found guilty of AWOL.

CONCLUSION

For the reasons stated, the Appellant asks this honorable Court to set aside the findings and the sentence and dismiss the Charge and Specification, by clearing her record entirely, because the charge was unjust.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were electronically delivered to the Court and served on the Air Force Government Trial and Appellate Operations Division on 18 May 2026.



Frederick J. Johnson
Major, U.S. Air Force
Appellate Defense Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	UNITED STATES’ MOTION TO ATTACH
)	
v.	)	Before Panel 2
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE)	
United States Air Force	)	28 May 2026
<i>Appellant.</i>)	

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

Pursuant to Rule 23.3(b) of this Court’s Rules of Practice and Procedure, the

United States moves this Court to attach the following document to this motion:

- Appendix – *USPS Tracking, Tracking Number: 9589071052701136625157*
(1 page)

The attached document contains the United States’ Postal Service tracking record for the Notice of Right to Submit Direct Appeal to the Air Force Court of Criminal Appeals (Notice of Right to Appeal) in the above captioned case. On 27 May 2026, this information was retrieved by undersigned appellate government counsel from <https://tools.usps.com/tracking/9589071052701136625157> using the tracking number from the record of trial for Appellant’s Notice of Right to Appeal. (ROT, Vol 1, *Certified Mail Receipt*, dated 29 July 2024).

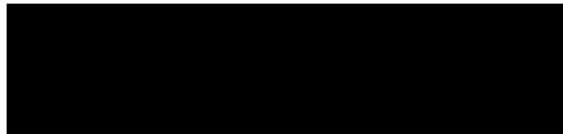
Our Superior Court held matters outside the record may be considered “when doing so is necessary for resolving issues raised by materials in the record.” United States v. Jessie, 79 M.J. 437, 444 (C.A.A.F. 2020). The Court concluded that “based on experience . . . ‘extra-record fact determinations’ may be ‘necessary predicates to resolving appellate questions.’” Id. at 442 (quoting United States v. Parker, 36 M.J. 269, 272 (C.M.A. 1993)). The issue of this

Court's jurisdiction was directly raised by materials in the record because they show, but do not fully explain, when and how Appellant received her Notice of Right to Appeal. These documents are relevant and necessary to resolve Appellant's assertion that the Government failed to provide her with her Notice of Right to Appeal and whether this Court has jurisdiction to review Appellant's case.

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



REGINA HENENLOTTER, Maj, USAF
Appellate Government Counsel, Government



MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Appellate Defense Division on 28 May 2026.



REGINA HENENLOTTER, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES, <i>Appellee,</i>	)	UNITED STATES’ MOTION FOR LEAVE TO FILE MOTION TO DISMISS
)	
)	
v.	)	Before Panel 2
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE)	
United States Air Force	)	28 May 2026
<i>Appellant.</i>)	

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

Pursuant to Rules 5(b)(2) and 18(d)(2) of the Joint Rules of Appellate Procedure for Courts of Criminal Appeals (Joint Rules), and Article 65(c)(1) and Article 66(b)(1) of the Uniform Code of Military Justice (UCMJ), the United States moves for leave to file a motion to dismiss the above captioned case for lack of jurisdiction.

Facts

On 29 July 2024, the legal office serving the general court-martial convening authority in the above-captioned case (AFSOC/JA) sent via certified mail to Appellant a notice of her right to submit a direct appeal to this Court. (Record of Trial (ROT), Vol 1, *Notice of Right to Submit Direct Appeal to the Air Force Court of Criminal Appeals*, dated 24 July 2024; *Certified Mail Receipt*, dated 29 July 2024; *Memorandum of B [REDACTED] L. H [REDACTED]*, dated 30 January 2025). AFSOC/JA sent this notice to the address provided by Appellant in her request for appellate defense counsel. (ROT, Vol 1, *Certified Mail Receipt*, dated 29 July 2024; Vol 2, *Request for Appellate Defense Counsel*, dated 7 May 2024)¹. The copy of the notice of the right to appeal

¹ Appellant signed two different copies of her request for appellate defense counsel. On 19 March 2024, Appellant did not request appellate defense counsel but provided an address for her PO box for the Government to send “future correspondence concerning this case.” (ROT, Vol 2,

sent via certified mail stated that Appellant’s “application for appeal must be received by AFCCA within 90 calendar days from the date on which you receive this letter.” (ROT, Vol 1, *Notice of Right to Submit Direct Appeal to the Air Force Court of Criminal Appeals*, dated 24 July 2024). The notice was available for pick-up beginning on 1 August 2024 and remained available until 15 August 2024, at which time the United States Postal Service (USPS) marked the letter as “unclaimed” and returned it to the sender. (Appendix: *USPS Tracking, Tracking Number: [REDACTED]*, dated 4 September 2024) (Appendix). The notice was returned to AFSOC/JA on 4 September 2024 as undeliverable. (*Id.*; ROT, Vol 1, *Memorandum of B [REDACTED] L. H [REDACTED]*, dated 30 January 2025).

On 1 October 2024, AFSOC/JA contacted Appellant via her yahoo.com e-mail address (also provided in her request for appellate defense counsel) to provide her with a copy of the notice of the right to submit a direct appeal as an e-mail attachment. (ROT, Vol 1, *Re: Notice of Right to Submit AFCCA Appeal – Aliyah L. Monroe*, dated 1 October 2024). Appellant replied to this e-mail the same day, stating “Yes ma’am, Thank you. I will carry this out.” (*Id.*) The copy of the notice of the right to appeal sent via e-mail contained the same language instructing Appellant to file an appeal within 90 days of receiving the letter.

As of 7 January 2025 (159 days after the notice of the right to appeal was delivered to her PO Box and 98 days after Appellant received and responded to the e-mail with the same notice), Appellant had not filed a notice of direct appeal with this Court. (ROT, Vol 1, *Memorandum of B [REDACTED] L. H [REDACTED]*, dated 30 January 2025). AFSOC/JA proceeded with an Article 65(d)

Request for Appellate Defense Counsel, dated 19 March 2024). When Appellant provided a second request for appellate defense counsel on 7 May 2024, she indicated that she did wish for appellate defense to represent her and provided the *same* address for her PO box, a telephone number, and two yahoo.com e-mail addresses. (ROT, Vol 2, *Request for Appellate Defense Counsel*, dated 7 May 2024).

review of Appellant’s case. (*Id.*) An Article 65(d) review is completed when the accused does not file a timely appeal in a case eligible for direct appeal under Article 66(b)(1). Article 65(d)(3)(A)(ii), UCMJ, 10 U.S.C. § 865(d). Following this review, AFSOC/JA reached out to Appellant via e-mail on 16 January 2025 to get a current mailing address to send via certified mail the notice of her Article 65(d) review. (*Id.*).

On 17 January 2025, Appellant submitted a notice of direct appeal. (*Notice of Direct Appeal Pursuant to Article 66(b)(1)(A), UCMJ*, dated 17 January 2025). Within, Appellant asserted that “the required notice of her right to appeal within 90 days was not delivered to [Appellant] via certified mail, and it was not deliverable at the address recorded on the letter in the record of trial.”

Law and Analysis

This Court has jurisdiction over “a *timely* appeal from the judgment of a court-martial, entered into the record under [Article 60c(a)], that includes a finding of guilty. Article 66(b)(1)(A), UCMJ, 10 U.S.C. § 866(b) (emphasis added).² In relevant part, notice of a direct appeal under Article 66(b)(1) is considered “timely” if it is filed “before the later of . . . the end of the 90-day period beginning on the date the accused was provided notice of appellate rights under [Article 65(c)].” Article 66(c)(1)(A), UCMJ, 10 U.S.C. § 866(c).

An appellant is notified of their right to file a direct appeal by the Government:

“The Judge Advocate General shall provide notice to the accused of the right to file an appeal under [Article 66(b)(1)] by means of depositing in the United States mail for delivery by first class certified mail to the accused at an address provided by the accused or, if no such address has been provided by the accused, at the latest

² *See also* Joint Rule 5(b)(2) (This Court has jurisdiction to review “timely appeal of judgments from special and general courts-martial that include a finding of guilty but are not subject to automatic review under paragraph [5(b)(1)]”).

address listed for the accused in the office service record of the accused.

Article 65(c)(1), UCMJ, 10 U.S.C. § 865(c).

This Court should dismiss Appellant’s appeal because she submitted her notice of direct appeal after the expiration of the 90-window to file such a notice. Article 66(c)(1)(A), UCMJ, 10 U.S.C. § 866(c). As a result, this Court lacks jurisdiction to review Appellant’s case.

The Government complied with its obligations under Article 65(c)(1) by mailing via first class certified mail a copy of the notice of the right to submit a direct appeal to the “address provided by the accused” – in this case, the address Appellant had provided on her Request for Appellate Defense Counsel. Article 65(c)(1), UCMJ, 10 U.S.C. § 865(c); ROT, Vol 2, *Request for Appellate Defense Counsel*, dated 7 May 2024). That the notice was eventually returned to the sender should not be construed to the benefit of *Appellant*, who provided the PO Box address to the Government on two separate occasions two months apart. (ROT, Vol 2, *Request for Appellate Defense Counsel*, dated 19 March 2024; *Request for Appellate Defense Counsel*, dated 7 May 2024). Appellant had two weeks between 1 August 2024 and 15 August 2024 to go to her PO Box and retrieve the notice; she failed to do so, and so the notice was returned through no fault of the Government. (Appendix). Based on the day Appellant received the notice of her right to submit a direct appeal via certified mail at the address she provided (1 August 2024), Appellant had until 30 October 2024 to file a notice of direct appeal. If this Court wishes to calculate the date using the last day Appellant’s notice was in her PO Box for pick-up (15 August 2024), Appellant had until 13 November 2024 to file a notice of direct appeal.

However, even if this Court wished to begin the 90-day clock starting from the date of Appellant’s e-mail notice on 1 October 2024, when she confirmed receipt of the e-mail containing the notice of the right to submit a direct appeal and stated that she would “carry this

out,” Appellant *still* filed her notice of direct appeal too late: Appellant had until 30 December 2024³ to submit her notice, and she did not do so until over two weeks later on 17 January 2025. (*Notice of Direct Appeal Pursuant to Article 66(b)(1)(A)*, UCMJ, dated 17 January 2025).

Appellant’s late submission is made further unacceptable by the fact that Appellant only filed it (two weeks late) after AFSOC/JA informed her that an Article 65(d) review had been completed in her case, and they wished to provide her with a hard copy of the results of the review via certified mail. (ROT, Vol 1, *Memorandum of B [REDACTED] L. H [REDACTED]*, dated 30 January 2025). Essentially, AFSOC/JA informed Appellant that her time to submit an appeal had passed and a different review had been completed, and Appellant nevertheless submitted a late notice of direct appeal and alleged her late notice was permitted because the Government fell short of their notice obligations. (*Notice of Direct Appeal Pursuant to Article 66(b)(1)(A)*, UCMJ, dated 17 January 2025). Given the documents contained within the ROT and Appendix, it is untrue that the Government failed to provide notice to Appellant via certified mail. The failure lay with Appellant, who failed to check her personal PO Box for two weeks despite providing that address to the Government to receive correspondence in the above-captioned case.

When Article 65(d) review was completed in Appellant’s case, that marked the completion of appellate review and was a “final judgment of legality of proceedings” in Appellant’s case. *See* Article 57(c)(1)(A) and (c)(2). That Article 65(d) review was properly conducted after Appellant failed to file a timely appeal with this Court despite the Government fully complying with Article 65(c)(1). Since Appellant’s conviction is already final, this Court does not have authority to take jurisdiction under Article 66, UCMJ.

³ This Court was open on Monday, 30 December 2024, since it was not a federal holiday nor a family day.

This Court should find that the latest possible deadline for Appellant to submit her notice of direct appeal was 30 December 2024. Because she missed that deadline, this Court lacks jurisdiction to review her case.

WHEREFORE, the United States respectfully requests that this Court dismiss Appellant's appeal for lack of jurisdiction.



REGINA HENENLOTTER, Maj, USAF
Appellate Government Counsel, Government
Trial and Appellate Operations Division



MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Appellate Defense Division on 28 May 2025.



REGINA HENENLOTTER, Maj, USAF
Appellate Government Counsel



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee,

v.

Staff Sergeant (E-5)

Aliyah L. MONROE,

United States Air Force,

Appellant.

**RESPONSE TO UNITED STATES’
MOTION FOR LEAVE TO FILE
MOTION TO DISMISS AND MOTION
TO DISMISS**

Before Panel No. 2

No. ACM 25008

4 June 2026

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

Pursuant to Rule 23.2 of this Court’s Rules of Practice and Procedure, Appellant, Staff Sergeant Aliyah Monroe, responds to the United States’ Motion for Leave to File Motion to Dismiss, dated 28 May 2026.¹ Appellant does not oppose the motion for leave to file but does oppose a motion to dismiss and requests that this Court deny the motion.

The Government’s basis for requesting dismissal is the supposed untimely filing of Appellant’s notice of appeal. Gov. Motion at 4. To support its argument, the Government discusses two events that it claims could be viewed as starting the ninety-day timeframe for Appellant to file a notice of appeal: mailing a notice of the right to submit a direct appeal and later emailing the same notice. *Id.* at 4–5. The emailed notice should not be considered because email is not a method of service included in the statute. Article 65(d)(1), Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 865(d)(1). Only mailing the notice by first class certified

¹ The Government’s motion is presented only as a motion for leave to file a motion to dismiss. United States’ Motion for Leave to File Motion to Dismiss (Gov. Motion). However, the Government states on the last page of the motion that the relief sought is dismissal of the appeal. *Id.* at 6. The Joint Rules of Appellate Procedure allow a motion for leave to file a pleading and the pleading to be combined in the same document. Joint R. of Appellate Procedure 23(d). As a result, Appellant is responding to the Government’s motion for leave to file a motion to dismiss as if it includes a motion to dismiss.

mail is a statutorily-approved method for providing notice of the right to submit a direct appeal. *Id.*

The key problem with the mailed notice in this case is that it was later returned as undeliverable. Gov. Motion at 2. This gave the Government actual knowledge that Appellant had not received the required notice and that the address to which they mailed it would not serve the purpose of providing notice. Given the statutory requirement to provide notice via first class certified mail, Article 65(d)(1), UCMJ, 10 U.S.C. § 865(d)(1), the Government's notice obligation should not be considered fulfilled after it learns that the notice it mailed was undeliverable. Here, the statutory period for Appellant to file a notice of appeal did not expire because the combination of an undeliverable mailed notice and an e-mailed notice does not meet the statutory requirements.

Ultimately, this Court does not need to resolve the question of whether a mailed notice that is returned as undeliverable is sufficient to trigger the statutory period for filing a notice of appeal in this case. The statute allows the Court to set a date for filing a notice of appeal by rule or order. Article 66(c)(1)(B), UCMJ, 10 U.S.C. § 866(c)(1)(B). An appeal is timely if it is filed before the later of the date set by the Court or the end of the ninety-day period. Article 66(c)(1), UCMJ, 10 U.S.C. § 866(c)(1). The Court should exercise its authority to set a date that indisputably permits review of Appellant's case because doing so will better serve the interests of timely review and judicial economy. *United States v. Tamez*, 63 M.J. 201, 203–04 (C.A.A.F. 2006), *overruled on other grounds*, *United States v. Rodriguez*, 67 M.J. 110 (C.A.A.F. 2009).² In

² *Rodriguez's* continued vitality in light of *Harrow v. Dept. of Defense*, 601 U.S. 480 (2024), has been questioned. Supplement to Petition for Grant of Review, *United States v. Sumpter*, USCA Dkt. No. 26-0179/NA (filed May 28, 2026), *available at* <https://www.armfor.uscourts.gov/briefs/2025Term/Sumpter260179Supplement.pdf>.

Tamez, the Court of Appeals for the Armed Forces (CAAF) considered a Government motion to dismiss in a case in which the appellant requested review on the merits after the time for petitioning the CAAF had expired. *Id.* at 202. In denying the motion to dismiss, the CAAF stated, “[T]he interests in timely review and judicial economy are better served by considering Appellant’s petition without further debate over the reasons for, and the effect of, the eight-day filing delay.” *Id.* at 203–04.

Similarly here, the Government’s motion to dismiss came after Appellant filed a merits brief accompanied by a number of issues raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982). While the Court could further consider the reasons for and effect of the timing of Appellant’s notice of appeal, judicial economy will be better served by considering Appellant’s appeal without further debate over that timing. *Tamez*, 63 M.J. at 203–04. Additionally, like in *Tamez*, undersigned counsel was not detailed to Appellant’s case until after 30 December 2024, the date that the Government pointed to as the latest day Appellant could file a notice of appeal. 63 M.J. at 203; Gov. Motion at 5. This additional parallel further counsels in favor of this Court exercising its authority to set a date that allows it to complete review of this appeal.

This Court has a clear statutory authority that allows it to review this case without further litigation over whether the Government adequately provided notice of the right to file a direct appeal or whether the filing of Appellant’s notice of appeal was timely. Appellant respectfully requests that this Court exercise that authority and deny the Government’s motion to dismiss.

Respectfully submitted,

[Redacted]

Frederick J. Johnson
Major, U.S. Air Force
Appellate Defense Counsel

[Redacted]

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were electronically delivered to the Court and served on the Air Force Government Trial and Appellate Operations Division on 4 June 2026.

[REDACTED]

Frederick J. Johnson
Major, U.S. Air Force
Appellate Defense Counsel

[REDACTED]

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	ANSWER TO ASSIGNMENTS OF
<i>Appellee,</i>	)	ERROR
)	
v.	)	Before Panel No. 2
)	
Staff Sergeant (E-5)	)	No. ACM 25008
ALIYAH L. MONROE,)	
United States Air Force	)	17 June 2026
<i>Appellant.</i>)	

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

ISSUES PRESENTED¹

I.

[WHETHER] THE INVESTIGATION INTO APPELLANT WAS RETALIATION FOR DENYING NON-VERBAL SEXUAL ADVANCES BY HER SUPERVISOR AND ASKING TO LEAVE HER WORKPLACE BECAUSE SHE FELT IT WAS TOXIC AND UNSAFE.

II.

[WHETHER] APPELLANT’S CONVICTION IS LEGALLY AND FACTUALLY INSUFFICIENT.

III.

[WHETHER] APPELLANT WAS SUBJECT TO DOUBLE JEOPARDY.

IV.

[WHETHER] APPELLANT’S CONVICTION VIOLATES RES JUDICATA.

V.

[WHETHER] APPELLANT’S CONVICTION VIOLATES JURISDICTION.

¹ Appellant personally raised all issues under United States v. Grostefon, 12 M.J. 431 (C.M.A. 1982).

STATEMENT OF CASE

On 19 March 2024, a military judge sitting as a special court-martial² convicted Appellant, contrary to her pleas,³ of one charge and one specification of absence without leave (AWOL) from 5 December 2023 to 4 January 2024, in violation of Article 86, UCMJ. (ROT, Vol 1, *Entry of Judgment*, dated 23 April 2024). Appellant was found not guilty of one specification of failure to go from 27 November 2023 to 4 December 2023, in violation of Article 86, UCMJ; and one charge and one specification of fleeing apprehension on 5 December 2023, in violation of Article 87a, UCMJ. The military judge sentenced Appellant to reduction to the grade of E-2 from E-5, to be confined for 77 days,⁴ and to a reprimand.

SUMMARY OF ARGUMENT

Appellant raised five issues pursuant to United States v. Grostefon, 12 M.J. 431 (C.M.A. 1982). The Government summarizes Appellant's assignments of errors as follows: (1) the conviction should be dismissed because the 2023 investigation into Appellant, administrative action she received in 2023, and court-martial in 2024 were retaliatory in nature; (2) the conviction for AWOL is legally and factually insufficient because of Appellant's good military character and the Government's failure to prove Appellant's ownership of the vehicle used to track her location during the period of AWOL; (3) the charge against Appellant violated the prohibition against double jeopardy because Appellant was previously subjected to two instances of pretrial confinement for the charged and uncharged offenses; (4) the conviction violated the

² Appellant requested to proceed with a military judge alone. (App. Ex. II).

³ Appellant declined to enter a plea, and the military judge entered a plea of not guilty under R.C.M. 910. (R. at 81).

⁴ Appellant was credited with 77 days of pretrial confinement. (R. at 77).

principle of res judicata because the uncharged offense of communicating a threat, which triggered an investigation into Appellant in November of 2023, had previously been handled with administrative action; and (5) the court-martial lacked jurisdiction over the offense because the offense was improperly referred to a court-martial, and Appellant was not given proper notice of the charged offenses.

Appellant's arguments fail because (1) there was no unlawful command influence from Appellant's supervisor; (2) Appellant's conviction was factually sufficient based on testimony from her leadership team and her own text messages that she was not at her place of duty during the charged time period; (3) Appellant was never subjected to multiple prosecutions or punishments for the same offense; (4) administrative actions or investigations are not final determinations under res judicata; and (5) the charges were properly referred and served on Appellant prior to the court-martial.

STATEMENT OF FACTS

*CF*⁵

Since August of 2022, CF was a squadron commander at Cannon Air Force Base (AFB), New Mexico. (R. at 93). CF had command authority over Appellant's unit and knew Appellant through that position. (Id.)

CF explained that Appellant had two separate leave requests pending in November of 2023. First, Appellant had leave scheduled from 23 to 27 November 2023 out of state. (R. at 96). Appellant was then scheduled to have a medical procedure on 28 November 2023 with

⁵ CF frequently testified to statements that might have been considered hearsay had there been an objection. However, Appellant never objected and the military judge noted for the record that, absent such objections, he would "give it the weight that it believes such evidence, along with all the other evidence in this case . . . deserves." (R. at 111).

convalescent leave starting the same day. (Id.) CF provided Appellant with three orders Appellant must comply with prior to going on leave: (1) Appellant must “provide both an accurate physical address and an emergency contact for her out-of-state leave;” (2) Appellant must “provide an accurate physical address for her convalescent leave;”⁶ and (3) Appellant had to provide “once-a-day check-ins with [OG],” Appellant’s senior enlisted leader (SEL), by text message or phone call. (R. at 97, 113). CF gave Appellant until 2000 on 22 November 2023 to comply with those orders, and before 2000 that day Appellant informed OG that she was cancelling her leave. (R. at 97). As a result, Appellant’s leave from 23 to 27 November 2023 was never approved. (R. at 98).

According to CF, Appellant did not appear for duty on 27 November 2023 despite outreach from her unit ordering her to appear for work. (R. at 99). CF also testified that Appellant went to the hospital for her medical procedure on 28 November 2023, but the procedure was cancelled because Appellant had not complied with the doctor’s orders. (R. at 100). Through OG, CF ordered Appellant to report to CF’s office on the morning of 29 November 2023. (Id.) Appellant appeared and was ordered to provide an accurate physical address, which Appellant eventually did provide.⁷ (R. at 101). CF also informed Appellant that her new duty location would be with the “front office” in Building 600 on Cannon AFB, NM, from 0800 to 1600 Monday through Friday. (R. at 102). On 30 November 2023, Appellant reported to Building 600 as ordered. (Id.)

⁶ CF learned the day prior that Appellant’s address in the “alpha roster” was inaccurate because the home at that address was vacant and without furniture. (R. at 95, 97).

⁷ Appellant drove to the physical address, followed by OG, to show she had access to the residence at that address. (R. at 101).

On 30 November 2023, Appellant reached out to OG to request to take leave the following week beginning on 4 December 2023. (R. at 102, 104). CF and OG met with Appellant on 1 December 2023 to discuss the leave request and CF provided Appellant with the same orders as before: (1) Provide an accurate leave address, and (2) check-in with OG at least once a day by text or by phone call. (R. at 103). Appellant refused these conditions, citing that it would not “give her the break she needed to have to check in one time per day.” (Id.) In light of this refusal, CF informed Appellant that she was not authorized to take leave until Appellant agreed with those two conditions. (Id.) Appellant was expected to report to Building 600 on Monday, 4 December 2023, as scheduled. (Id.)

CF testified that after this meeting, Appellant texted her supervisor that she had a medical appointment in Lubbock, TX, on Monday, 4 December 2023. (R. at 104). Appellant’s supervisor directed Appellant to provide supporting documentation for this appointment, which Appellant did not do. (Id.)

According to CF, Appellant did not report to Building 600 on 4 December 2023. (R. at 103). She then did not report for work on 5 December 2023. (R. at 104). CF, OG, and another supervisor went to the physical address where OG had seen Appellant go into the house, and she was not present. (Id.) At that point, CF reported Appellant as absent without leave. (R. at 104-105). CF testified that after she declared Appellant AWOL, OG continued to reach out to Appellant through her phone multiple times until Appellant returned to the base on 4 January 2024. (R. at 105).

CF testified that on the evening of 5 December 2023, Appellant attempted to return to Cannon AFB at approximately 2000. (Id.) When security forces told Appellant to pull over and that she was being detained, Appellant fled the installation in her vehicle. (Id.)

CF testified that Appellant made contact with OG to ask him to put her in emergency leave status. (R. at 106). According to CF, when OG ordered her to return to base, Appellant asked if OG “still intended not to approve her leave” or words to that effect. (Id.) OG informed Appellant she was AWOL and needed to turn herself into security forces. (Id.) CF next testified that on 2 January 2024, Appellant met with LF, a senior enlisted member outside Appellant’s unit, in Clovis, NM. (Id.)

On cross-examination, Appellant asked CF if CF was “served a restraining order by the Sheriff or Clovis Police Department,” to which CF replied that she “was served a temporary request for a restraining order. However, an actual restraining order was denied, so I was never served an actual restraining order.” (R. at 107). CF was not asked to clarify who the restraining order was for. CF also considered Cannon AFB to be a “remote” location and that airmen under CF’s command do “outsource” their medical appointments to other locations. (R. at 107-108).

OG

OG became Appellant’s SEL in August of 2023. (R. at 113, 137). OG testified that Appellant would be made aware of her duty hours and “what she should . . . be doing while on duty” through feedback sessions and text messages because Appellant “preferred texting over phone calls.” (R. at 113-114). OG testified that text messages to Appellant were “absolutely” “clear as to potentially what she needed to do or when she needed to report.” (R. at 114). Through OG, the Government entered 11 pages of text messages between himself and Appellant from 16 November 2023 to 4 January 2023. (R. at 115-116; Pros. Ex. 1).

In a text message on 16 November 2023 from Appellant to OG, Appellant requested to take leave from 22 November 2023 to 27 November 2023. (Pros. Ex. 1; R. at 120). Following

the conversation between CF, OG, and Appellant, OG texted Appellant that Appellant would have to:

contact me once per day by text or calling me on my phone. Please provide an emergency contact number to MSgt [N] and me for GA leave and convalescent [sic] leave here in Clovis. Also provide me and MSgt [N] an address for convalescent [sic] leave that you will be staying at here in Clovis.

(Pros. Ex. 1).

Appellant texted OG just before 2000 on 22 November 2023 that she would not be taking leave in Georgia. (Id.)

On 27 November 2023, OG texted Appellant again regarding her planned convalescent leave. (Pros. Ex. 1 at; R. at 122). OG again informed Appellant that she needed to provide a current physical address and an emergency contact. (Pros. Ex. 1). Appellant referred OG back to the address she had previously provided through LeaveWeb, which OG knew to be an uninhabited house. (Pros. Ex. 1; R. at 124). When OG asked if Appellant would actually be at the provided address when he came to visit in two days, Appellant asked why OG would need to come to her home and how anyone would know she did not live there. (Id.) Appellant continued to provide the address in Clovis, NM, that OG knew to be uninhabited. (R. at 126).

Later on 27 November 2023, when Appellant asked if her convalescent leave was approved, OG told Appellant “your leave for medical is good and it should be approved tomorrow. You’ll still need to check with me each day.” (Pros. Ex. 1). OG also later texted Appellant that he would see her in a couple of weeks based on his understanding of the recovery time Appellant would need following her medical procedure scheduled for 28 November 2023. (Pros. Ex. 1; R. at 127). However, OG learned at 1400 on 28 November 2023 that Appellant was not admitted for surgery. (R. at 128). OG’s understanding was that, if Appellant did not have

the medical procedure, she would report to work the next day on 29 November 2023. (R. at 129).

OG was concerned when Appellant went missing from work and felt it was his duty and responsibility as a senior noncommissioned officer to know the general welfare of his airmen. (R. at 142). On 5 and 6 December 2023, OG informed Appellant that she was in AWOL status and needed to report to Cannon AFB, NM. (Pros. Ex. 1; R. at 133). OG continued to text Appellant that she was AWOL and needed to return to base from 6 December 2023 through 4 January 2024. (Pros. Ex. 1). On 3 January 2024, OG informed Appellant she was now in “deserter status.” (Pros. Ex. 1; R. at 135). Appellant never responded to these text messages. (R. at 136).

FA

SA FA is an investigator in the Air Force Office of Special Investigations (AFOSI) stationed at Cannon AFM, NM. (R. at 145). AFOSI began investigating Appellant’s case on 3 January 2024, when CF placed Appellant in deserter status. (R. at 146). SA FA obtained a hotel receipt for Appellant’s stay at the Woodspring Suites in Amarillo, TX from 6 to 7 December 2023. (R. at 146-147). Appellant had also signed a form stating she intended to stay at that hotel for 30 days. (R. at 147).

Upon reviewing Appellant’s bank records with USAA bank from December 2023 and January 2024, SA FA saw purchases with Appellant’s debit card in Clovis, NM, Amarillo, TX, and Odessa, TX. (R. at 148). SA FA also obtained “cell phone pings” with the location of Appellant’s cell phone in Texas during the period Appellant was AWOL. (Id.) SA FA also obtained “license plate pings of [Appellant’s] vehicle.” (Id.) These “pings” indicated

Appellant's vehicle was in Albany, Georgia, Oklahoma City, Oklahoma, and Lubbock, TX. (R. at 149).

LF

LF was a senior enlisted member stationed at Cannon AFB in a different unit and chain of command from Appellant. (R. at 157-158). LF first met Appellant "in passing." (R. at 158). In January of 2024, Appellant contacted LF one day between 1730 and 1900 after obtaining LF's phone number from the commander's executive assistant in LF's unit. (R. at 158-159).⁸ LF did not have a personal relationship with Appellant and had to recall meeting her. (R. at 159). Appellant asked LF to meet her and take Appellant to the base. (R. at 160). LF agreed to meet Appellant in a local parking lot in Clovis, NM. (Id.)

Appellant met LF in the parking lot and got in LF's car and asked to talk "for a little bit." (R. at 161). Appellant asked LF if Appellant's commander and first sergeant would be present if Appellant returned to base, and LF said they would likely be there. (Id.) They discussed Appellant being AWOL and LF informed Appellant that she would not be paid while in AWOL status. (R. at 162). Appellant went back and forth saying she was not ready to return to the base and ultimately left LF's car without returning with her to base. (R. at 163-164).

Sentencing Case

The Government admitted Appellant's personal data sheet and her enlisted performance reports into evidence for sentencing. (Pros. Ex. 3, 4). CF testified during presentencing that Appellant had had "repeated safety concerns" in her unit prior to going AWOL. (R. at 181). CF testified that Appellant had been moved out of her work center in September 2023 and an informal commander inquiry was conducted, wherein four of six individuals in the work center

⁸ LF testified that these two interactions were "very far apart." (R. at 158).

stated they “felt unsafe because of behaviors from [Appellant].” (R. at 182). According to CF, removing Appellant from her original supervisor and work center did not improve Appellant’s behavior. (R. at 183).

ARGUMENT

II.

APPELLANT’S CONVICTIONS ARE LEGALLY AND FACTUALLY SUFFICIENT.

Standard of Review

For Appellant’s offenses, factual sufficiency is reviewed using the following standard:

(i) In an appeal of a finding of guilty under subsection (b), the Court may consider whether the finding is correct in fact upon request of the accused if the accused makes a specific showing of a deficiency in proof.

(ii) After an accused has made such a showing, the Court may weigh the evidence and determine controverted questions of fact subject to—

(I) appropriate deference to the fact that the trial court saw and heard the witnesses and other evidence; and

(II) appropriate deference to findings of fact entered into the record by the military judge.

(iii) If, as a result of the review conducted under clause (ii), the Court is clearly convinced that the finding of guilty was against the weight of the evidence, the Court may dismiss, set aside, or modify the finding, or affirm a lesser finding.

10 U.S.C. § 866(d)(1)(B).

“[T]he degree of deference will depend on the nature of the evidence at issue.” United States v. Harvey, 85 M.J. 127, 130 (C.A.A.F. 2024). This Court has discretion to determine “what level of deference is appropriate.” Id.

Issues of legal sufficiency are reviewed *de novo*. United States v. Washington, 57 M.J. 394, 399 (C.A.A.F. 2002).

Law and Analysis

This Court is neither required nor empowered to review the factual sufficiency of evidence unless an appellant (1) asserts an assignment of error and (2) shows a specific deficiency in the proof. Harvey, 85 M.J. at 130. If Appellant made a showing, this Court may “weigh the evidence and determine controverted questions of fact” but must give appropriate deference to “the fact that the trial court heard and saw the witnesses and other evidence” and “to the findings of fact entered into the record by the military judge.” Article 66(d)(1)(B), UCMJ. This Court must be “clearly convinced that the finding of guilty was against the weight of the evidence,” before it may grant any relief. *Id.* But for this Court “to be clearly convinced that the finding of guilty was against the weight of the evidence, two requirements must be met:” (1) This Court must decide that, after weighing the evidence, it “does not prove that the appellant is guilty beyond a reasonable doubt;” and (2) this Court “must be clearly convinced of the correctness of this decision.” Harvey, 85 M.J. at 132 (internal citations omitted).

What “deference” is appropriate “depend[s] on the nature of the evidence at issue.” and it is within this Court’s discretion to determine what level of deference is appropriate. Id. at 130-131. Per CAAF:

[A] CCA might determine that the appropriate deference required for a court-martials assessment of the testimony of a fact witness, whose credibility was at issue, is high because the CCA judges could not see the witness testify. In contrast, when the CCA can assess documents, videos, and other objective evidence just as well as the court-martial, the CCA might determine that the appropriate deference is low.

Id. at 130.

“Review of the evidence is limited to the entire record, which includes only the evidence admitted at trial and exposed to the crucible of cross-examination.” United States v. Aguilar, 70 M.J. 563, 565 (A.F. Ct. Crim. App. 2011) (citing Article 66, UCMJ; United States v. Bethea, 46 C.M.R. 223, 224-25 (C.M.A. 1973).

As our sister service held, a “general disagreement with a verdict falls short of a specific showing of a deficiency in proof, and thus will not trigger full factual sufficiency analysis.” United States v. Valencia, 85 M.J. 529, 535 (N.M. Ct. Crim. App. 2024). This Court has said that, to show a deficiency of proof, “the statute requires Appellant to ‘identify a weakness in the evidence admitted at trial to support an element . . . and explain why, on balance, the evidence (or lack thereof) admitted at trial contradicts a guilty finding.’” United States v. Csiti, 2024 CCA LEXIS 160 at *18 (A.F. Ct. Crim. App. 29 April 2024) (citing Harvey, 83 M.J. at 691).

To obtain a conviction of AWOL, the Government had to prove (1) that on or about 5 December 2023, Appellant absented herself from her place of duty at which she was required to be, that is, Building 600, Cannon Air Force Base, New Mexico; (2) That the absence was without authority from someone who could give Appellant leave; and (3) that Appellant remained absent until 4 January 2024. Manual for Courts-Martial, pt. IV, ¶ 10.b.(3) (2023 ed.) (MCM).

A. Appellant has not shown a deficiency of proof to trigger a factual sufficiency review.

Appellant has not identified a weakness in the evidence admitted at trial to any of the elements of AWOL and is only generally disagreeing with her conviction. Valencia, 85 M.J. at 535. Appellant only argued that the Government did not prove its case because it did not prove beyond a reasonable doubt that the vehicle tracked to TX, OK, and GA was hers. Csiti, 2024 CCA LEXIS 160 at *18 ; App. Br. at 10a. None of the elements of AWOL required the Government to prove the vehicle in question was Appellant’s. Assuming Appellant is contesting

the first element – that she was not at her place of duty in Building 600 – then the Government was only required to prove beyond a reasonable doubt that Appellant was not present at her duty location. MCM, pt. IV, ¶ 10.b.(3). It did not have to definitively prove where Appellant actually was while she was not at her duty location, let alone where her car was located.

However, to the degree the Government used Appellant’s car in support of the first element, the Government introduced un rebutted testimony through SA FA, the AFOSI agent who investigated Appellant once she was placed in deserter status. (R. at 145-146). SA FA testified that he “obtained license plate pings of [Appellant]’s vehicle” that showed the vehicle in TX, OK, and GA. (R. at 148). Appellant did not object to or cross-examine SA FA on this statement. (R. at 148-149). Her current assertion that AFOSI tracked two different vehicles and did not prove that either belonged to her is outside the evidence admitted at trial (App. Br. at 10a), and this Court cannot consider it when considering whether a specific deficiency of proof was raised. Aguilar, 70 M.J. at 565. As SA FA’s testimony stood uncontested, this Court may consider it truthful for both the premise that it was Appellant’s vehicle and license plate that SA FA tracked and that the vehicle was tracked to TX, OK, and GA as opposed to Cannon AFB, NM.

In addition, while Appellant seems to be making an argument that her good military character should have been considered under M.R.E. 404(a)(2)(A), Appellant did not introduce any evidence of her good military character during findings. Her enlisted performance reports (EPR) were only introduced by the Government during presentencing. (R. at 178; Pros. Ex. 4). Therefore, this Court cannot consider it for purposes of a factual sufficiency analysis. Aguilar, 70 M.J. at 565. Likewise, Appellant alleged in Issue I that her experiences with her leadership, coworkers, and supervisor caused Appellant to feel “unsafe at Cannon AFB, NM. This

experience resulted in a matter of survival and self-preservation.” (App. Br. at 10a). To the extent Appellant appears to be making a self-defense claim, she failed to raise this defense or introduce facts in support of it at the court-martial. This Court cannot consider it when assessing the factual sufficiency of her conviction for AWOL. Aguilar, 70 M.J. at 565.

Appellant has not raised a specific deficiency of proof, and therefore this Court’s factual sufficiency analysis has not been triggered.

B. The weight of the evidence established beyond a reasonable doubt that Appellant was AWOL.

If this Court concludes that Appellant showed a specific deficiency in proof, relief should still be denied. The Government presented compelling evidence establishing beyond a reasonable doubt that Appellant was AWOL from 5 December 2023 until 4 January 2024 through her leadership’s testimony and Appellant’s own text message chain with OG. This Court should follow the example in Harvey and give substantial deference to the military judge’s determination that CF, OG, and LF testified credibly regarding the circumstances leading up to and surrounding Appellant’s AWOL. This Court should treat CF, OG, and LF’s un rebutted testimony as true when weighing the evidence. Furthermore, the Government supported its case with text messages between Appellant and OG, which this Court can review without the need to give deference to the factfinder at trial. Harvey, 85 M.J. at 130-131.

The Government proved all three elements of AWOL through the testimony of CF, OG, LF, and SA FA.

1. Appellant was absent from her duty location from 5 December 2023 to 4 January 2024.

The Government proved the first and third elements of AWOL through CF, OG, and OG’s text messages with Appellant. CF was Appellant’s commander, and OG was Appellant’s

SEL. (R. at 93, 113, 137). On 29 November 2023, CF ordered Appellant into CF's office and informed Appellant of her new duty location, Building 600, with duty hours from 0800 to 1600 Monday through Friday. (R. at 100, 102). Appellant understood her duty time and location, and she reported for duty on 30 November 2023. (R. at 102).

Appellant did not report to work on 4 December 2023 and informed OG that she had a medical appointment in Lubbock. (Pros. Ex. 5). OG ordered Appellant to provide proof of this appointment, and Appellant did not respond. (Id.) Appellant did not report to work again on 5 December 2023. (R. at 104). Appellant did not appear at her place of duty, Building 600, from 5 December 2023 until she returned to base on 4 January 2024. (R. at 105, 133; Pros. Ex. 1). Both CF and OG testified credibly to a simple truth – Appellant was not reporting for duty from 5 December 2023 until she voluntarily returned to base on 4 January 2024. (Id.) No evidence was introduced at trial to attack CF or OG's credibility. On the contrary, their testimony was only supported by the text messages OG exchanged with Appellant telling Appellant she was AWOL, meaning OG was texting Appellant because she was not appearing at her place of duty. (Pros. Ex. 1). The authenticity of the text messages was likewise never contested, and this Court should give them substantial weight during a factual sufficiency review.

2. Appellant did not have leave authorization from someone with authority to grant her leave.

Both CF and OG testified that Appellant originally had convalescent leave scheduled, but not approved, starting on 28 November 2023's after her medical procedure. (R. at 100, 122; Pros. Ex. 1). Through CF and OG, Appellant knew she needed to provide OG with an accurate leave address for her convalescent leave because the unit knew the address provided in LeaveWeb was an uninhabited home in the local area. (R. at 95, 97, 124, 126; Pros. Ex. 1). Appellant did not provide an address and continued to refer to the inaccurate address in

LeaveWeb. (Pros. Ex. 1). On 28 November 2023, CF and OG learned that Appellant did not undergo the relevant medical procedure to need convalescent leave. (R. at 100, 128). Therefore, her convalescent leave was never approved. (R. at 129).

When Appellant requested to take leave starting on 4 December 2023, CF informed Appellant that she needed to provide an accurate leave address and to contact OG once daily while on leave. (R. at 102-103). These were the same terms that had existed with Appellant's previous request to take leave over Thanksgiving of 2023 and her now-cancelled convalescent leave. (R. at 97, 113; Pros. Ex. 1). Instead of complying with these terms, Appellant simply did not show up for work on 4 December 2023 and informed OG that she had a medical appointment in Lubbock. (Pros. Ex. 5). When ordered to provide proof of this appointment to CF and OG, Appellant did not respond. (Id.) Appellant did not report to work again on 5 December 2023. (R. at 104). Per CF and OG, Appellant had not been granted leave for either 4 or 5 December 2023. (R. at 104; Pros. Ex. 1). CF placed Appellant in AWOL status on 5 December 2023, which OG informed Appellant of on 6 December 2023. (R. at 105; Pros. Ex. 1).

On 6 December 2023, Appellant requested emergency leave from 6 December 2023 to 15 December 2023 for "several appointments" and "emergent personal matters." (Pros. Ex. 1). This was denied: OG texted Appellant that she was ordered to provide proof of the last few days' worth of appointments or be at Building 600 at 0900. (Id.) Appellant received this order and ignored it, instead re-asking OG for her to have emergency leave. (Id.) OG repeated the same order to provide proof of the previous appointments or report to duty at Building 600 at 0900. (Id.) Again, Appellant did not respond. (Id.)

OG texted Appellant 25 times between 5 December 2023 and 4 January 2024 directing her to provide proof of her medical appointments, inquiring if she was okay, and telling her to

return to the base and turn herself into security forces due to her AWOL and deserter status. (Id.) Appellant never responded and did not return to base, going so far as to meet with a member of another unit, LF, off-base on 2 January 2024 to discuss the possibility of returning to base but ultimately choosing to delay another two days. (R. at 105, 158, 163-164). Appellant was fully aware that she was not on authorized leave but continued to evade her unit. While not required, the Government proved to a near “mathematical certainty” both that Appellant was absent from her place of duty and that she had not been granted leave to be so. United States v. Kloh, 27 C.M.R. 403, 406 (C.M.A. 1959).

The Government proved beyond a reasonable doubt that Appellant was absent from her place of duty from 5 December 2023 until 4 January 2024 without leave from someone authorized to grant her leave. Appellant was given verbal and written requirements to be allowed to take leave and refused to comply with them. (R. at 97, 103; Pros. Ex. 1). This Court should afford high deference to the military judge that CF and OG testified credibly since this Court did not observe the witnesses directly. United States v. Campbell, 2026 CCA LEXIS 117, at *46-47 (A.F. Ct. Crim. App. Mar. 11, 2026) (unpub. op.). This Court can also rely on the text messages between Appellant and OG as proof that she was not at her place of duty despite knowing she was in AWOL status. (Pros. Ex. 1). This Court should not be clearly convinced that the conviction for AWOL was against the weight of the evidence.

C. Appellant’s conviction is legally sufficient.

Appellant’s conviction is legally sufficient. Legal sufficiency asks “whether, after viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” King, 78 M.J. at 221. Because Appellant’s conviction meets the higher burden of factual sufficiency, it is also

legally sufficient. A rational factfinder could have found all of the elements of AWOL beyond a reasonable doubt, as the military judge did in this case.

Appellant's conviction is legally and factually sufficient, and she is unentitled to relief. This Court should deny this assignment of error.

I.

APPELLANT'S PREVIOUS SUPERVISOR HAD NO BEARING ON HER CONVICTION FOR AWOL.

Additional Facts

On 27 March 2023, Appellant received a record of individual counseling (RIC) from her officer in charge (OIC) for "having a yelling match with" RO, a coworker, during which Appellant was "overheard being disrespectful and telling [RO] 'fuck you' and general language of contempt towards her." (App. Ex. VIII, Att. 4). On 27 June 2023, Appellant received a letter of counseling (LOC) from SS for contradicting him in an e-mail to the Professional Development Center regarding a briefing. (Id.) On 29 June 2023, Appellant received a letter of reprimand (LOR) from SS for disrespecting her civilian flight chief, WH, and leaving the office without permission. (Id.)

In July of 2023, Appellant reported to someone in her leadership that SS was romantically interested in her, and the administrative paperwork she had received from him was retaliation for rejecting SS. (Id.) Appellant also reported to a different senior noncommissioned officer in her unit and to the Equal Opportunity Office that she did not feel safe, but she would not explain why. (Id.)

At some point, Appellate disclosed to her commander that she felt unsafe in her work center, and CF initiated a commander informal inquiry on 13 September 2023. (R. at 182; App. Ex. VIII, Att. 4, Att. 5). During the inquiry on 18 September 2023, Appellant stated that her

work center was toxic and hostile. (App. Ex. VIII, Att. 4). Appellant felt “target[ed]” by her supervisors and like they were “monitoring her at all times.” (Id.) Appellant believed SS followed her while she was on leave. (Id.) More specifically, she accused SS of following her when he took leave in Florida while she took leave in Georgia (*see* App. Br. at 2a), and when he took leave in Missouri while Appellant took leave in Illinois. (App. Ex. VII, Att. 4).

RO also participated in the inquiry. (Id.) RO stated that during the shouting match in March of 2023, Appellant “threatened to end [RO’s] life.” (Id.) According to CF, the threat from Appellant was “I am going to put an end to your little games and put an end to you” or words to that effect. (App. Ex. VIII, Att. 5). At some point after the informal inquiry, RO reported the threat from Appellant to security forces, which began an investigation into Appellant. (Id.)

Standard of Review

Allegations of unlawful command influence (UCI) are reviewed de novo. United States v. Boyce, 76 M.J. 242, 249 n.7 (C.A.A.F. 2017) (citation omitted). This standard applies even with a more “generalized allegation of unlawful influence” from a non-command source acting without “the mantle of command authority.” United States v. Barry, 78 M.J. 70, 76-77 (C.A.A.F. 2018).

Law and Analysis

Appellant’s allegation that SS retaliated against her most closely aligns with an allegation for apparent accusatory unlawful command influence.

Article 37(a)(3), UCMJ, states:

No person subject to this chapter . . . may attempt to coerce or, by any unauthorized means, attempt to influence the action of a court-martial or any other military tribunal or any member thereof, in reaching the findings or sentence in any case, or the action of any

convening, approving, or reviewing authority or preliminary hearing officer with respect to such acts taken pursuant to this chapter . . . as prescribed by the President.

There are two types of UCI: actual and apparent. The test for actual unlawful command influence requires an appellant to demonstrate (1) facts, which if true, constitute UCI; (2) the court-martial proceedings were unfair to Appellant; and (3) the UCI was the cause of that unfairness. United States v. Boyce, 76 M.J. 242, 248 (C.A.A.F. 2017). Under the traditional test, to determine if apparent unlawful command influence was present, the defense shoulders the initial burden of raising a claim of unlawful command influence. United States v. Stombaugh, 40 M.J. 208, 213 (C.M.A. 1994). The defense must bring forth “some evidence” to suggest that: (1) the facts, if true, constitute unlawful command influence; and (2) this unlawful command influence placed an “intolerable strain” on the public’s perception of the military justice system because “an objective, disinterested observer, fully informed of all the facts and circumstances, would harbor a significant doubt about the fairness of the proceeding.” United States v. Boyce, 76 M.J. 242, 249 (C.A.A.F. 2017).

However, Article 37(c) now includes the provision that “no finding or sentence of a court-martial may be held incorrect on the ground of a violation of this section unless the violation materially prejudices the substantial rights of the accused.” As this Court held in In re Vargas, it lacks jurisdiction to grant relief for apparent UCI because the “material prejudice standard excludes apparent UCI claims which do not involve material prejudice to an accused.” 84 M.J. 734, 740-741 (A.F. Ct. Crim. App. 2024) (internal citations and quotations omitted).

This Court has no authority to grant relief for an allegation of apparent UCI under Article 37(c). Appellant has made no cohesive argument that receipt of paperwork from SS or SS’s supposed influence over CF or the convening authority prejudiced Appellant by making her

court-martial “unfair.” Boyce, 76 M.J. at 248; App. Br. at 10a. Instead, Appellant only reiterated her opinion that there was “[in]sufficient evidence of AWOL.” (Id., *see* Issue II above). Appellant asserts SS set off the “chain” of “events” that led to her conviction by giving Appellant administrative paperwork and using SS’s “positional influence of his subordinates, peers, and senior leadership.” (App. Br. at 10a). While any person subject to the UCMJ can commit UCI and they need not be acting with the “mantle of command authority,” United States v. Barry, 78 M.J. 70, 76 (C.A.A.F. 2018), SS was CF’s subordinate. Appellant makes no argument as to how SS influenced anyone within their shared chain of command, let alone how he may have influenced his own commander or the convening authority to refer charges against Appellant. (Id.)

The incidents for which SS gave Appellant administrative paperwork were not used against Appellant during her court-martial and did not make up any of the charges against her. (App. Ex. VIII, Att. 4). None of SS’s actions towards Appellant amounted to UCI for her court-martial. This Court should decline to grant Appellant relief under this assignment of error.

III.

APPELLANT WAS NOT SUBJECTED TO DOUBLE JEOPARDY.

Additional Facts

While under investigation for communicating a threat in violation of Article 115, UCMJ, Appellant was placed in pretrial confinement for a single day on 21 November 2023 related to

both that allegation and for refusing to obey a lawful order to comply with administrative aspects of the investigation in violation of Article 92, UCMJ.⁹ (App. Ex. III; App. Ex. VIII, Att. 5).

Following her return to Cannon AFB on 4 January 2024, Appellant was placed in pretrial confinement. (App. Ex. IV). The charges originally listed in the pretrial confinement order by CF were desertion in violation of Article 85, UCMJ; failure to obey an order or regulation in violation of Article 92, UCMJ; and communicating a threat in violation of Article 115, UCMJ. (Id.) By the time of the 48-hour review, the neutral and detached officer listed failure to go and absence without leave in violation of Article 86, UCMJ; and fleeing apprehension in violation of Article 87a, UCMJ as the offenses he believed Appellant to have committed. (App. Ex. VII, Att. 4). Those offenses were carried across the 72-hour memo, seven-day pretrial confinement hearing, and ultimately preferred and referred against Appellant. (App. Ex. VII, Att. 5; ROT, Vol 3, *Pretrial Confinement of [Appellant]*, dated 7 January 2024; ROT, Vol 1, *Charge Sheet*, dated 27 February 2024).

Appellant was then brought to a court-martial for the offenses and arraigned on 18 March 2024. (R. at 33). Evidence was introduced regarding the referred offenses on 19 March 2024. (R. at 92). Appellant filed a motion for release from pretrial confinement on 16 March 2024, which the military judge denied, but made no motion for relief based on double jeopardy. (App. Ex. VII, XXI).

Standard of Review

Whether a prosecution violates double jeopardy is a question of law this Court reviews de novo. United States v. Hutchins, 78 M.J. 437, 444 (C.A.A.F. 2019). Whether an appellant has

⁹ Appellant's placement in pretrial confinement on 21 November 2023 was, in part, because she would not obey a lawful order to review and confirm her own personal data was accurate on a form provided to her by security forces. (R. at 94).

waived or forfeited an issue is a legal question this Court reviews de novo. United States v. Schmidt, 82 M.J. 68, 72 (C.A.A.F. 2022).

Law and Analysis

Article 44(a), UCMJ, provides: “No person may, without his consent, be tried a second time for the same offense.” “The prohibition against double jeopardy not only protects against multiple punishments for the same offence, but shields individuals from the harassment of multiple prosecutions for the same misconduct.” United States v. Rice, 80 M.J. 36, 40 (C.A.A.F. 2020) (internal citations and quotations omitted). In a case where a military judge serves as the factfinder, double jeopardy “attaches” under Article 44, UCMJ, when evidence is introduced at the trial. R.C.M. 907(b)(2)(C)(i)(I); United States v. Casillas, 2025 CCA LEXIS 445, at *16 (A.F. Ct. Crim. App. Sep. 18, 2025) (citing United States v. Easton, 71 M.J. 168, 172 (C.A.A.F. 2012)). Double jeopardy can be forfeited if not raised prior to final adjournment of the court-martial. R.C.M. 905(e)(2); 907(b)(2)(C); United States v. Driskill, 84 M.J. 248 (C.A.A.F. 2024).

“[F]orfeiture is the failure to make the timely assertion of a right.” United States v. Gladue, 67 M.J. 311, 313 (C.A.A.F. 2009). Appellate courts review forfeited issues for plain error. United States v. Davis, 79 M.J. 329, 331 (C.A.A.F. 2020) (citation omitted). Plain error occurs where “(1) there is error; (2) the error is clear or obvious; and (3) the error materially prejudiced a substantial right.” United States v. Robinson, 77 M.J. 294, 299 (C.A.A.F. 2018) (citation omitted). If the error is of constitutional dimensions, this Court may not affirm the result unless the error was harmless beyond a reasonable doubt. United States v. Mason, 59 M.J. 416, 424 (C.A.A.F. 2004).

Appellant did not object or move to dismiss the charges on the grounds of double jeopardy at her court-martial, forfeiting the issue. (*See* App. Ex. XXI). Therefore, this Court

reviews whether she was subjected to the prohibition against double jeopardy for plain error.

Davis, 79 M.J. at 331

This issue is resolved entirely on the first question: there was no error. Appellant was never prosecuted at an earlier court-martial (or a federal civilian trial) for the offenses referred to the court-martial at issue. Appellant was placed in pretrial confinement on 21 November 2023, released, and returned to it on 4 January 2024. (App. Ex. III, IV). In accordance with R.C.M. 305(j)(2), the Government brought Appellant to a hearing before a pretrial confinement review officer (PCRO) within seven days of her confinement. Pretrial confinement is not a “prosecution” or “punishment” for an offense. Rice, 80 M.J. at 40. While the charges considered by the PCRO to hold Appellant in pretrial confinement match the charges on the charge sheet, those charges were properly referred against Appellant separate from the pretrial confinement order and hearing. (ROT, Vol 1, *Charge Sheet*, dated 27 February 2024; App. Ex. VII, Att. 5)¹⁰. Appellant was then brought to court-martial, arraigned, and the Government presented evidence on those offenses. (R. at 33, 94).

There were not multiple prosecutions for any of Appellant’s charged offenses. No evidence was introduced against Appellant before a factfinder on any of the charged offenses or the uncharged offenses of communicating a threat, failing to obey a lawful order, or desertion. Casillas, 2025 CCA LEXIS 445, at *16. Contrary to Appellant’s argument, a pretrial confinement hearing is not a court-martial. (App. Br. at 11a). It was a hearing to determine if Appellant should remain in pretrial confinement because she committed an offense triable by court-martial and confinement was required by the circumstances. R.C.M. 305(d). While

¹⁰ Appellant’s argument regarding an alleged lack of notice of the charged offenses is taken up in Issue V below.

pretrial confinement may implicate other rights, such as starting the speedy trial clock under R.C.M. 707(a), it has no bearing on double jeopardy. R.C.M. 304(a)(4), Discussion. Appellant was not “punished” multiple times for the same offense because pretrial confinement is not a punishment. R.C.M. 304(f). In Appellant’s case, pretrial confinement was properly used to ensure Appellant was present for her court-martial. (App. Ex. XXI).

Appellant’s charged offenses were not prohibited by double jeopardy. Therefore, this Court should decline to provide relief under this assignment of error.

IV.

NO MATTER AT APPELLANT’S COURT-MARTIAL WAS SUBJECTED TO A PREVIOUS FINAL DETERMINATION UNDER RES JUDICATA.

Additional Facts

Facts relevant to this issue are contained within Issue I above.

Standard of Review

Whether an action constitutes a final determination under R.C.M. 905(g) is an interlocutory question. R.C.M. 905(g), Discussion. “Questions of the applicability of a rule of law to an undisputed set of facts are normally questions of law,” R.C.M. 801(e)(5), Discussion, which this Court would review de novo. United States v. Corppetts, 2021 CCA LEXIS 21, at *3-4 (A.F. Ct. Crim. App. Jan. 25, 2021) (citing United States v. Hunter, 65 M.J. 399, 401 (C.A.A.F. 2008)) (“Interpretation of a statute and a [R.C.M. are. . . questions of law we review de novo).

Law and analysis

Res judicata does not provide Appellant with a basis for relief. While res judicata is applicable to courts-martial through R.C.M. 905(g), it only applies to matters “put in issue and

finally determined by a court-martial, reviewing authority, or appellate court which had jurisdiction to determine the matter.” Such matters “may not be disputed by the United States in any *other* court-martial of the same accused.” *Id.* (emphasis added).

Appellant only underwent one court-martial – the one that concluded on 19 March 2023 on charges of failure to go, AWOL, and fleeing apprehension. (ROT, Vol 1, *Entry of Judgment*, dated 23 April 2024). While Appellant argues that the RIC she received for her fight with RO in March of 2023 “already dealt with” the shouting match they’d engaged in, administrative paperwork is not a “final determination of a matter” under 905(g). (App. Br. at 11a-12a). First, the RIC and later investigation into communicating a threat were not matters raised in a court-martial. R.C.M. 905(g). Second, the RIC and investigations were not actions taken by a convening authority, since the RIC came from Appellant’s OIC, and security forces opened the investigation. (App. Ex. VIII, Att. 4; R.C.M. 905(g). Third, even if Appellant’s RIC or investigation were somehow at the behest of her convening authority, a premise for which there is no evidence, a “pretrial determination by a convening authority . . . is not a final determination under [R.C.M. 905(g)].” R.C.M. 905(g), Discussion. The decision by Appellant’s OIC to give Appellant a RIC was not a final determination under R.C.M. 905(g) that the Government could not dispute, and it did not bar the Government from investigating Appellant for communicating a threat later in September 2023 or prosecuting her for an AWOL committed nine months after the fact. Finally, there is no connection between the alleged threat from Appellant to RO and her conviction. The two incidents are not the “same transaction.” One is an incident from March of 2023, whereas Appellant’s conviction was for AWOL from December of 2023 until January of 2024. R.C.M. 905(g).

By bringing the referred charges against Appellant, the Government did not dispute a final determination of a court-martial, convening authority, or appellate court, and this Court should decline to grant Appellant relief under R.C.M. 905(g).

V.

THE COURT-MARTIAL HAD JURISDICTION OVER APPELLANT'S OFFENSE.

Additional Facts

At trial, Appellant moved to have the charges dismissed for lack of jurisdiction. (R. at 26, 34, ; App. Ex. XVIII). Appellant argued that the court-martial lacked jurisdiction based on a lack of notice of the charges and of an improper referral. (R. at 34). The military judge denied her motion. (App. Ex. XVIII). In reaching his conclusion, the military judge took judicial notice of fact that pursuant to the Worldwide Convening Authorities Designation Memorandum, dated 28 November 2022, the commander of the 27th Special Operations Wing (27 SOW/CC) was authorized to convene special courts-martial pursuant to Article 23(a) of the UCMJ. (R. at 75-75; App. Ex. XII). The military judge also found as fact that 27 SOW/CC referred the charges in Appellant case on 27 February 2024 and detailed members under his command to serve as court-martial members. (App. Ex. XVIII). The military judge found as fact that 27 SOW/CC had previously delegated his authority to authenticate referral to the 27th Special Operations Wing Staff Judge Advocate (27 SOW/SJA), who authenticated 27 SOW/CC's decision to refer the charges by signing on behalf of 27 SOW/CC. (Id.; App. Ex. X; XVIII).

The military judge further found as fact that on 27 February 2024, Appellant was served the referred charges but declined to sign for the receipt of them. (App. Ex. XVIII). In reaching this conclusion, the military judge considered the certificate of service on which TH, a case paralegal, annotated Appellant's refusal to sign. (App. Ex. IX; XVIII).

Standard of Review

Jurisdiction is the power of a court to try and determine a case and to render a valid judgment, which is a legal question this Court reviews de novo. United States v. Nealy, 71 M.J. 73, 75 (C.A.A.F. 2012) (citing United States v. Harmon, 63 M.J. 98, 101 (C.A.A.F. 2006)). A military judge's findings of fact are reviewed for clear error. United States v. Roberts, 69 M.J. 23, 26 (C.A.A.F. 2010).

Law and Analysis

On appeal, Appellant repeats her argument that the charges proceeded without notice at the pretrial confinement hearing (see Issue III above) and that the Staff Judge Advocate for the base legal office unlawfully referred the charges. (App. Br. at 13a).

For the improper referral, it appears Appellant is relying on R.C.M. 201(b)(3), which requires that “[e]ach charge before the court-martial must be referred to it by competent authority.” While Appellant argued that 27 SOW/SJA could not refer the charges to a court-martial, that is not what occurred. (App. Br. at 13a). As the military judge found as fact, 27 SOW/CC was a person authorized to refer charges and convene courts-martial, and 27 SOW/CC permissibly delegated authority to 27 SOW/SJA to “authenticate the referral of court-martial charges” and “court-martial convening orders;” not to refer charges or issue convening orders outright. (App. Ex. X, XVIII; Department of the Air Force Instruction (DAFI) 51-201, *Administration of Military Justice*, para. 1.17, dated 24 January 2024). In accordance with this delegation, 27 SOW/SJA specifically signed the charge sheet and convening order “FOR THE COMMANDER.” (ROT, Vol 1, *Charge Sheet*, dated 27 February 2024; *Special Order AB-1*, dated 21 February 2024). 27 SOW/CC made the decision to refer charges against Appellant, and

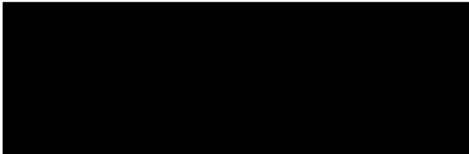
27 SOW/SJA authenticated that decision. There was no impermissible delegation of authority by 27 SOW/CC, and the referral was proper. (App. Ex. XVIII).

Finally, Appellant received notice of the referred charges. The military judge's conclusion that Appellant received notice was supported by the record. (App. Ex. XVIII). TH prepared the certificate of service for the referred charges, and Appellant declined to sign it. As a result, TH annotated Appellant's declination on the certification of service. (App. Ex. IX).

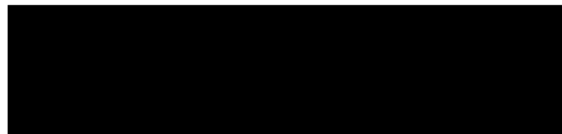
Jurisdiction vested in Appellant's case under R.C.M. 201(b), and she was given proper notice of the charges against her. This Court should affirm the findings and sentence.

CONCLUSION

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



REGINA HENENLOTTER, Maj, USAF
Appellate Government Counsel, Government
Trial and Appellate Operations Division



MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and the Air Force Appellate Defense Division on 17 June 2026.



REGINA HENENLOTTER, Maj, USAF
Appellate Government Counsel

