

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
<i>Appellee</i>	)	TIME (FIRST)
)	
v.	)	Before Panel No. 1
)	
Airman Basic (E-1)	)	No. ACM S32748
JAHKOB L. THOMAS,)	
United States Air Force	)	2 March 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(2) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for his first enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 60 days, which will end on **12 May 2023**. The record of trial was docketed with this Court on 12 January 2023. From the date of docketing to the present date, 49 days have elapsed. On the date requested, 120 days will have elapsed.

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

Respectfully submitted,

[Redacted Signature]

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

[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 Appellate Government Division on 2 March 2023.

Respectfully submitted,

[REDACTED]

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

[REDACTED]

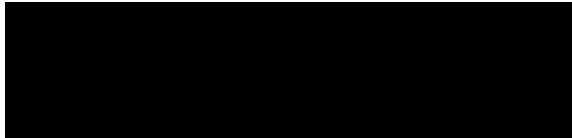
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman Basic (E-1)	)	ACM S32748
JAHKOB L. THOMAS, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

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

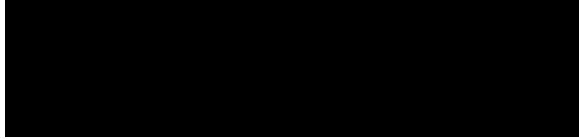


MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 3 March 2023.



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



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT
<i>Appellee</i>	)	OF TIME (SECOND)
)	
v.	)	Before Panel No. 1
)	
Airman Basic (E-1)	)	No. ACM S32748
JAHKOB L. THOMAS,)	
United States Air Force	)	5 May 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **11 June 2023**. The record of trial was docketed with this Court on 12 January 2023. From the date of docketing to the present date, 113 days have elapsed. On the date requested, 150 days will have elapsed.

On 12 October 2022, Appellant was tried by a special court-martial at Keesler Air Force Base, Mississippi. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with two specifications of wrongful distribution of intimate visual images in violation of Article 117a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 917a; one charge with two specifications of obstruction of justice in violation of Article 131b, UCMJ, 10 U.S.C. § 931b; two charges with three total specifications of assault consummated by a battery in violation of Article 128, UCMJ, 10 U.S.C. § 928; and one charge with one specification of failure to obey a lawful general regulation in violation of Article 92, UCMJ, 10 U.S.C. § 892. Record (R.) at 13, 85-86; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 5 December 2022. The military judge sentenced Appellant to forfeit two-

thirds pay per month for five months, to be confined for five months,¹ and to be discharged from the service with a bad conduct discharge. R. at 118; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. AB Jahkob Thomas*, dated 15 November 2022.

The record of trial is three volumes consisting of 12 prosecution exhibits, three defense exhibits, six appellate exhibits, and two court exhibits; the transcript is 119 pages. Appellant is not currently confined.

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

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

Respectfully submitted,

[REDACTED]

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

[REDACTED]

¹ The military judge sentenced Appellant to 5 months’ confinement for Specification 1 of Charge I, 5 months’ confinement for Specification 2 of Charge I, two weeks’ confinement for Specification 1 of Charge II, 1 month confinement for Specification 2 of Charge II, 2 weeks’ confinement for Specification 1 of Charge III, 4 months’ confinement for Specification 2 of Charge III, 2 months’ confinement for the Specification of the Second Additional Charge I, and 2 weeks’ confinement for the Specification of the Second Additional Charge II, with all sentences to confinement running concurrently. R. at 118.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 5 May 2023.

[REDACTED]

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

[REDACTED]

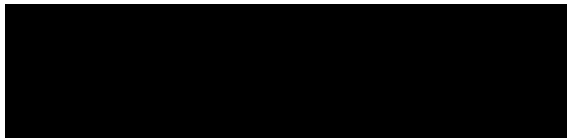
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman Basic (E-1)	)	ACM S32748
JAHKOB L. THOMAS, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

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

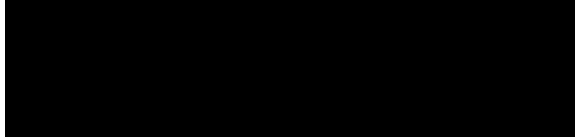


MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 5 May 2023.



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



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT
<i>Appellee</i>	)	OF TIME (THIRD)
)	
v.	)	Before Panel No. 1
)	
Airman Basic (E-1)	)	No. ACM S32748
JAHKOB L. THOMAS,)	
United States Air Force	)	1 June 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **11 July 2023**. The record of trial was docketed with this Court on 12 January 2023. From the date of docketing to the present date, 140 days have elapsed. On the date requested, 180 days will have elapsed.

On 12 October 2022, Appellant was tried by a special court-martial at Keesler Air Force Base, Mississippi. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with two specifications of wrongful distribution of intimate visual images in violation of Article 117a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 917a; one charge with two specifications of obstruction of justice in violation of Article 131b, UCMJ, 10 U.S.C. § 931b; two charges with three total specifications of assault consummated by a battery in violation of Article 128, UCMJ, 10 U.S.C. § 928; and one charge with one specification of failure to obey a lawful general regulation in violation of Article 92, UCMJ, 10 U.S.C. § 892. Record (R.) at 13, 85-86; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 5 December 2022. The military judge sentenced Appellant to forfeit two-

thirds pay per month for five months, to be confined for five months,¹ and to be discharged from the service with a bad conduct discharge. R. at 118; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. AB Jahkob Thomas*, dated 15 November 2022.

The record of trial is three volumes consisting of 12 prosecution exhibits, three defense exhibits, six appellate exhibits, and two court exhibits; the transcript is 119 pages. Appellant is not currently confined.

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

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

Respectfully submitted,



AF

Appellate Defense Counsel
Air Force Appellate Defense Division



¹ The military judge sentenced Appellant to 5 months’ confinement for Specification 1 of Charge I, 5 months’ confinement for Specification 2 of Charge I, two weeks’ confinement for Specification 1 of Charge II, 1 month confinement for Specification 2 of Charge II, 2 weeks’ confinement for Specification 1 of Charge III, 4 months’ confinement for Specification 2 of Charge III, 2 months’ confinement for the Specification of the Second Additional Charge I, and 2 weeks’ confinement for the Specification of the Second Additional Charge II, with all sentences to confinement running concurrently. R. at 118.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 1 June 2023.

[REDACTED]

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

[REDACTED]

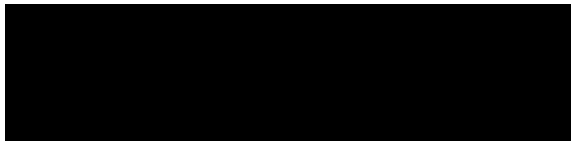
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman Basic (E-1)	)	ACM S32748
JAHKOB L. THOMAS, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

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

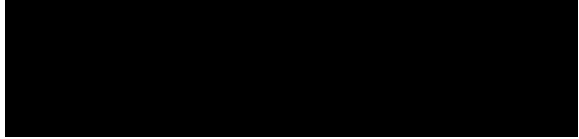


MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 2 June 2023.



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



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT
<i>Appellee</i>	)	OF TIME (FOURTH)
)	
v.	)	Before Panel No. 1
)	
Airman Basic (E-1)	)	No. ACM S32748
JAHKOB L. THOMAS,)	
United States Air Force	)	29 June 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(3) and (4) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **10 August 2023**. The record of trial was docketed with this Court on 12 January 2023. From the date of docketing to the present date, 168 days have elapsed. On the date requested, 210 days will have elapsed.

On 12 October 2022, Appellant was tried by a special court-martial at Keesler Air Force Base, Mississippi. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with two specifications of wrongful distribution of intimate visual images in violation of Article 117a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 917a; one charge with two specifications of obstruction of justice in violation of Article 131b, UCMJ, 10 U.S.C. § 931b; two charges with three total specifications of assault consummated by a battery in violation of Article 128, UCMJ, 10 U.S.C. § 928; and one charge with one specification of failure to obey a lawful general regulation in violation of Article 92, UCMJ, 10 U.S.C. § 892. Record (R.) at 13, 85-86; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 5 December 2022. The military judge sentenced Appellant to forfeit two-

thirds pay per month for five months, to be confined for five months,¹ and to be discharged from the service with a bad conduct discharge. R. at 118; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. AB Jakob Thomas*, dated 15 November 2022.

The record of trial is three volumes consisting of 12 prosecution exhibits, three defense exhibits, six appellate exhibits, and two court exhibits; the transcript is 119 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

Counsel is currently assigned 20 cases; 12 cases are pending initial AOE's before this Court. Of those cases, 3 cases have priority over this case:

- 1) *United States v. Sampley*, ACM 40393 – The record of trial is three volumes consisting of four prosecution exhibits, seven defense exhibits, and nine appellate exhibits; the transcript is 181 pages. Undersigned counsel has completed her review of the record.
- 2) *United States v. Rupp*, ACM S32746 – The record of trial is two volumes consisting of three prosecution exhibits, 11 defense exhibits, 1 court exhibit, and eight appellate exhibits; the transcript is 140 pages. Undersigned counsel has reviewed more than half of the record.
- 3) *United States v. Brown*, ACM S32747 – The record of trial is three volumes consisting of five prosecution exhibits, 12 defense exhibit, and four appellate exhibits; the



¹ The military judge sentenced Appellant to 5 months' confinement for Specification 1 of Charge I, 5 months' confinement for Specification 2 of Charge I, two weeks' confinement for Specification 1 of Charge II, 1 month confinement for Specification 2 of Charge II, 2 weeks' confinement for Specification 1 of Charge III, 4 months' confinement for Specification 2 of Charge III, 2 months' confinement for the Specification of the Second Additional Charge I, and 2 weeks' confinement for the Specification of the Second Additional Charge II, with all sentences to confinement running concurrently. R. at 118.

transcript is 139 pages. Undersigned counsel has not yet begun reviewing the record of trial.

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

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

Respectfully submitted,


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


CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 29 June 2023.

[REDACTED]

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

[REDACTED]

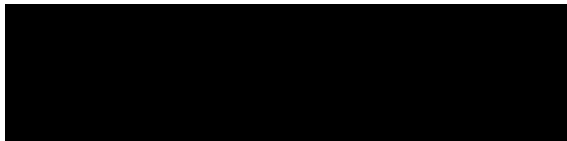
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman Basic (E-1)	)	ACM S32748
JAHKOB L. THOMAS, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

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

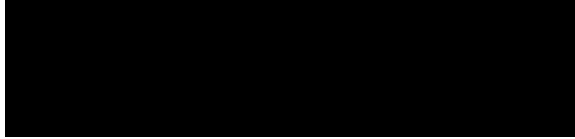


MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force

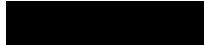


CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 29 June 2023.



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



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
<i>Appellee</i>	)	TIME (FIFTH)
)	
v.	)	Before Panel No. 1
)	
Airman Basic (E-1)	)	No. ACM S32748
JAHKOB L. THOMAS,)	
United States Air Force	)	3 August 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(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 Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **9 September 2023**. The record of trial was docketed with this Court on 12 January 2023. From the date of docketing to the present date, 203 days have elapsed. On the date requested, 240 days will have elapsed.

On 12 October 2022, Appellant was tried by a special court-martial at Keesler Air Force Base, Mississippi. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with two specifications of wrongful distribution of intimate visual images in violation of Article 117a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 917a; one charge with two specifications of obstruction of justice in violation of Article 131b, UCMJ, 10 U.S.C. § 931b; two charges with three total specifications of assault consummated by a battery in violation of Article 128, UCMJ, 10 U.S.C. § 928; and one charge with one specification of failure to obey a lawful general regulation in violation of Article 92, UCMJ, 10 U.S.C. § 892. Record (R.) at 13, 85-86; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 5 December 2022. The military judge sentenced Appellant to forfeit two-

thirds pay per month for five months, to be confined for five months,¹ and to be discharged from the service with a bad conduct discharge. R. at 118; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. AB Jakob Thomas*, dated 15 November 2022.

The record of trial is three volumes consisting of 12 prosecution exhibits, three defense exhibits, six appellate exhibits, and two court exhibits; the transcript is 119 pages. Appellant is not currently confined. Undersigned counsel has not yet begun reviewing the record of trial in this case.

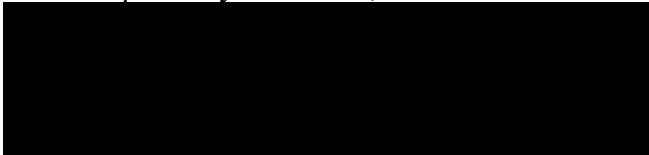
Counsel is currently assigned 15 cases; 8 cases are pending initial AOE's before this Court. Of those cases, 3 cases have priority over this case:

- 1) *United States v. Scott*, ACM 40411 – The record of trial is 11 volumes consisting of 14 prosecution exhibits, 14 defense exhibits, 1 court exhibit, and 55 appellate exhibits; the transcript is 1599 pages. Undersigned counsel has not yet begun reviewing the record of trial.
- 2) *United States v. Schneider*, ACM 40403 – The record of trial is four volumes consisting of three prosecution exhibits, 26 defense exhibit, and eight appellate exhibits; the transcript is 369 pages. Undersigned counsel has not yet begun reviewing the record of trial.
- 3) *United States v. Cassaberry-Folks*, ACM 40444 - The record of trial consists of seven volumes. The transcript is 375 pages. There are four Prosecution Exhibits, three Defense Exhibits, one Court Exhibit and eleven Appellate Exhibits. Undersigned counsel has not yet begun reviewing the record of trial.

Through no fault of Appellant, undersigned counsel has been unable to complete his review and prepare a brief for Appellant's case. Moreover, the undersigned counsel was just detailed to represent Appellant on 28 July 2023 which has not afforded an adequate opportunity for counsel to review the record of trial. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,



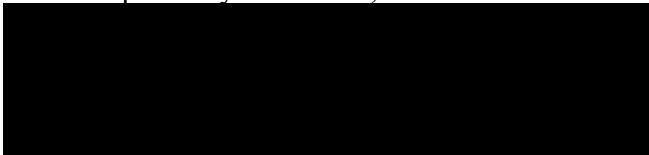
MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 3 August 2023.

Respectfully submitted,



MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



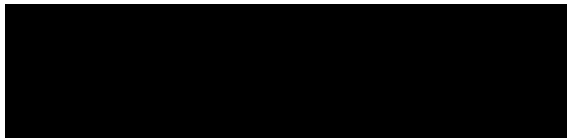
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman Basic (E-1)	)	ACM S32748
JAHKOB L. THOMAS, USAF,)	
<i>Appellant.</i>	)	Panel No. 1
)	

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

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

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

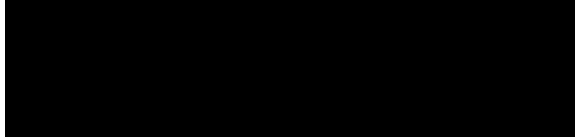


MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force Appellate Defense Division on 4 August 2023.



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



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

UNITED STATES	)	No. ACM S32748
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Jahkob L. THOMAS)	
Airman Basic (E-1))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 1

On 3 August 2023, counsel for Appellant submitted a Motion for Enlargement of Time (Fifth) requesting an additional 30 days to submit Appellant's assignments of error. The Government opposes the motion.

The court has considered Appellant's motion, the Government's opposition, case law, and this court's Rules of Practice and Procedure. Accordingly, it is by the court on this 7th day of August, 2023,

ORDERED:

Appellant's Motion for Enlargement of Time (Fifth) is **GRANTED**. Appellant shall file any assignments of error not later than **9 September 2023**.

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



FOR THE COURT

[Redacted signature]

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

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

UNITED STATES	)	No. ACM S32748
<i>Appellee</i>)	
)	
v.)	
	)	NOTICE OF PANEL CHANGE
Jahkob L. THOMAS)	
Airman Basic (E-1))	
U.S. Air Force)	
<i>Appellant</i>)	

It is by the court on this 8th day of August, 2023,

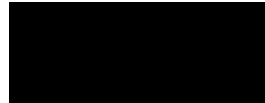
ORDERED:

That the Record of Trial in the above-styled matter is withdrawn from Panel 1 and referred to Panel 3 for appellate review.

This panel letter supersedes all previous panel assignments.



FOR THE COURT



TANICA S. BAGMON
Appellate Court Paralegal

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
<i>Appellee</i>	)	TIME (SIXTH)
)	
v.	)	Before Panel No. 3
)	
Airman Basic (E-1)	)	No. ACM S32748
JAHKOB L. THOMAS,)	
United States Air Force	)	31 August 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(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 Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **9 October 2023**. The record of trial was docketed with this Court on 12 January 2023. From the date of docketing to the present date, 231 days have elapsed. On the date requested, 270 days will have elapsed.

On 12 October 2022, Appellant was tried by a special court-martial at Keesler Air Force Base, Mississippi. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with two specifications of wrongful distribution of intimate visual images in violation of Article 117a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 917a; one charge with two specifications of obstruction of justice in violation of Article 131b, UCMJ, 10 U.S.C. § 931b; two charges with three total specifications of assault consummated by a battery in violation of Article 128, UCMJ, 10 U.S.C. § 928; and one charge with one specification of failure to obey a lawful general regulation in violation of Article 92, UCMJ, 10 U.S.C. § 892. Record (R.) at 13, 85-86; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 5 December 2022. The military judge sentenced Appellant to forfeit two-

thirds pay per month for five months, to be confined for five months,¹ and to be discharged from the service with a bad conduct discharge. R. at 118; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. AB Jakob Thomas*, dated 15 November 2022.

The record of trial is three volumes consisting of 12 prosecution exhibits, three defense exhibits, six appellate exhibits, and two court exhibits; the transcript is 119 pages. Appellant is not currently confined. Undersigned counsel has completed the initial review of the record of trial in this case.

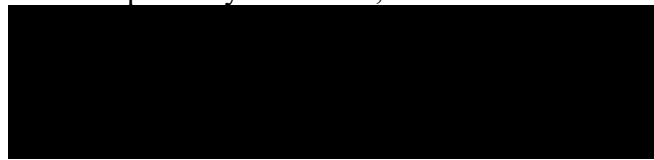
Counsel is currently assigned 11 cases; 8 cases are pending initial AOE's before this Court. Of those cases, 3 cases have priority over this case:

- 1) *United States v. Scott*, ACM 40411 – The record of trial is 11 volumes consisting of 14 prosecution exhibits, 14 defense exhibits, 1 court exhibit, and 55 appellate exhibits; the transcript is 1599 pages. Undersigned counsel has begun, but not yet completed an initial review of the record of trial.
- 2) *United States v. Schneider*, ACM 40403 – The record of trial is four volumes consisting of three prosecution exhibits, 26 defense exhibit, and eight appellate exhibits; the transcript is 369 pages. Undersigned counsel has completed review of the record of trial.
- 3) *United States v. Cassaberry-Folks*, ACM 40444 - The record of trial consists of seven volumes. The transcript is 375 pages. There are four Prosecution Exhibits, three Defense Exhibits, one Court Exhibit and eleven Appellate Exhibits. Undersigned counsel has begun, but not yet completed review of the record of trial.

Through no fault of Appellant, undersigned counsel has only recently completed the initial review of the record of trial after having been detailed to this case on 28 July 2023. Additionally, the undersigned counsel has been working on other assigned matters. These other matters include a previous detailing as trial defense counsel in the matter of *United States v. TSgt Samoy Young*, a special court-martial docketed to take place at Osan Air Base, Republic of Korea beginning on 11 September 2023 for approximately five days. Undersigned counsel will be traveling to the Republic of Korea on 1 September 2023 and does not anticipate returning until 16 September 2023. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,



MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



CERTIFICATE OF FILING AND SERVICE

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

Respectfully submitted,



MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



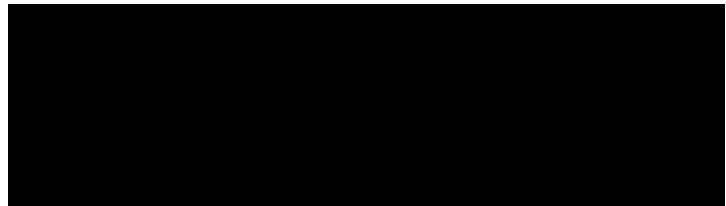
IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman Basic (E-1)	)	ACM S32748
JAHKOB L. THOMAS, USAF,)	
<i>Appellant.</i>	)	Panel No. 3
)	

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

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

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

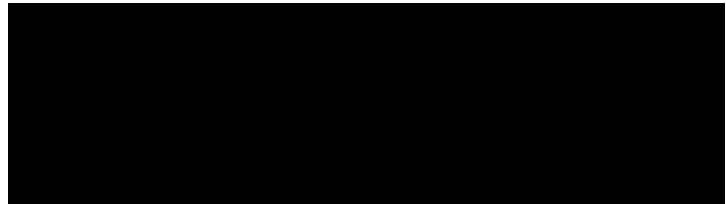


PETE FERRELL, Lt Col, USAF
Director of Operations
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court and to the Air Force
Appellate Defense Division on 6 September 2023.



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



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
<i>Appellee</i>	)	TIME (SEVENTH)
)	
v.	)	Before Panel No. 3
)	
Airman Basic (E-1)	)	No. ACM S32748
JAHKOB L. THOMAS,)	
United States Air Force	)	2 October 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(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 Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **8 November 2023**. The record of trial was docketed with this Court on 12 January 2023. From the date of docketing to the present date, 263 days have elapsed. On the date requested, 300 days will have elapsed.

On 12 October 2022, Appellant was tried by a special court-martial at Keesler Air Force Base, Mississippi. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with two specifications of wrongful distribution of intimate visual images in violation of Article 117a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 917a; one charge with two specifications of obstruction of justice in violation of Article 131b, UCMJ, 10 U.S.C. § 931b; two charges with three total specifications of assault consummated by a battery in violation of Article 128, UCMJ, 10 U.S.C. § 928; and one charge with one specification of failure to obey a lawful general regulation in violation of Article 92, UCMJ, 10 U.S.C. § 892. Record (R.) at 13, 85-86; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 5 December 2022. The military judge sentenced Appellant to forfeit two-

thirds pay per month for five months, to be confined for five months,¹ and to be discharged from the service with a bad conduct discharge. R. at 118; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. AB Jakob Thomas*, dated 15 November 2022.

The record of trial is three volumes consisting of 12 prosecution exhibits, three defense exhibits, six appellate exhibits, and two court exhibits; the transcript is 119 pages. Appellant is not currently confined. Undersigned counsel has completed the initial review of the record of trial in this case. Appellant has been advised of his right to timely appeal and of this request for an enlargement of time. Appellant agrees to the request.

Counsel is currently assigned 14 cases; 9 cases are pending initial AOE's before this Court. Of those cases, 3 cases have priority over this case:

- 1) *United States v. Scott*, ACM 40411 – The record of trial is 11 volumes consisting of 14 prosecution exhibits, 14 defense exhibits, 1 court exhibit, and 55 appellate exhibits; the transcript is 1599 pages. Undersigned counsel has begun, but not yet completed an initial review of the record of trial.
- 2) *United States v. Schneider*, ACM 40403 – The record of trial is four volumes consisting of three prosecution exhibits, 26 defense exhibit, and eight appellate exhibits; the transcript is 369 pages. Undersigned counsel has completed review of the record of trial.
- 3) *United States v. Cassaberry-Folks*, ACM 40444 - The record of trial consists of seven volumes. The transcript is 375 pages. There are four Prosecution Exhibits, three Defense Exhibits, one Court Exhibit and eleven Appellate Exhibits. Undersigned counsel has begun, but not yet completed review of the record of trial.

Through no fault of Appellant, undersigned counsel has only recently completed the initial review of the record of trial after having been detailed to this case on 28 July 2023. Additionally, the undersigned counsel has been working on other assigned matters. These other matters include a previous detailing as trial defense counsel in the matter of *United States v. TSgt Samoy Young*, a special court-martial docketed to take place at Osan Air Base, Republic of Korea beginning on 11 September 2023 for approximately five days. Counsel returned from this overseas temporary duty on 18 September 2023. Additionally, counsel is hard at work on a supplement for a petition review before the Court of Appeals for the Armed Forces that is due on 11 October 2023. An enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,



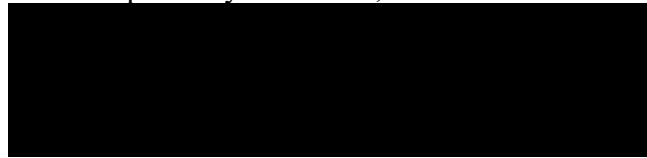
MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



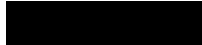
CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 2 October 2023.

Respectfully submitted,



MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

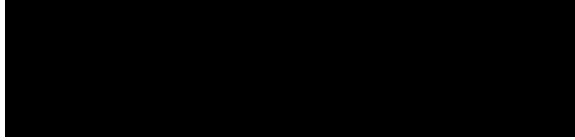
UNITED STATES,	)	UNITED STATES' GENERAL
<i>Appellee,</i>	)	OPPOSITION TO APPELLANT'S
	)	MOTION FOR ENLARGEMENT
v.	)	OF TIME
)	
Airman Basic (E-1)	)	ACM S32748
JAHKOB L. THOMAS, USAF,)	
<i>Appellant.</i>	)	Panel No. 3
)	

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

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

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

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

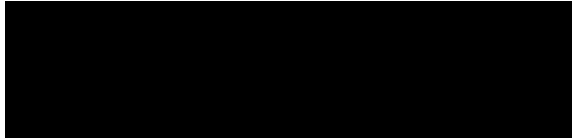


MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court, to Civilian Defense Counsel, and to the Air Force Appellate Defense Division on 4 October 2023.



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



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
<i>Appellee</i>	)	TIME (EIGHTH)
)	
v.	)	Before Panel No. 3
)	
Airman Basic (E-1)	)	No. ACM S32748
JAHKOB L. THOMAS,)	
United States Air Force	)	1 November 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for a eighth enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 30 days, which will end on **8 December 2023**. The record of trial was docketed with this Court on 12 January 2023. From the date of docketing to the present date, 293 days have elapsed. On the date requested, 330 days will have elapsed.

On 12 October 2022, Appellant was tried by a special court-martial at Keesler Air Force Base, Mississippi. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with two specifications of wrongful distribution of intimate visual images in violation of Article 117a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 917a; one charge with two specifications of obstruction of justice in violation of Article 131b, UCMJ, 10 U.S.C. § 931b; two charges with three total specifications of assault consummated by a battery in violation of Article 128, UCMJ, 10 U.S.C. § 928; and one charge with one specification of failure to obey a lawful general regulation in violation of Article 92, UCMJ, 10 U.S.C. § 892. Record (R.) at 13, 85-86; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 5 December 2022. The military judge sentenced Appellant to forfeit two-

thirds pay per month for five months, to be confined for five months,¹ and to be discharged from the service with a bad conduct discharge. R. at 118; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. AB Jakob Thomas*, dated 15 November 2022.

The record of trial is three volumes consisting of 12 prosecution exhibits, three defense exhibits, six appellate exhibits, and two court exhibits; the transcript is 119 pages. Appellant is not currently confined. Undersigned counsel has completed the initial review of the record of trial in this case. Appellant has been advised of his right to timely appeal and of this request for an enlargement of time. Appellant agrees to the request.

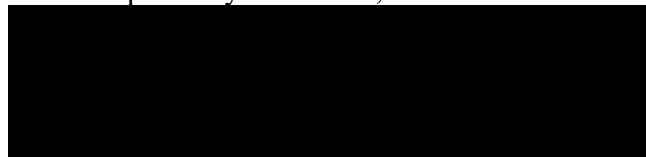
Counsel is currently assigned 14 cases; 9 cases are pending initial AOE's before this Court. Of those cases, 3 cases have priority over this case:

- 1) *United States v. Scott*, ACM 40411 – The record of trial is 11 volumes consisting of 14 prosecution exhibits, 14 defense exhibits, 1 court exhibit, and 55 appellate exhibits; the transcript is 1599 pages. Undersigned counsel has completed an initial review of the ROT and begun drafting an assignment of error.
- 2) *United States v. Schneider*, ACM 40403 – The record of trial is four volumes consisting of three prosecution exhibits, 26 defense exhibit, and eight appellate exhibits; the transcript is 369 pages. Undersigned counsel has completed review of the record of trial.
- 3) *United States v. Cassaberry-Folks*, ACM 40444 - The record of trial consists of seven volumes. The transcript is 375 pages. There are four Prosecution Exhibits, three Defense Exhibits, one Court Exhibit and eleven Appellate Exhibits. Undersigned counsel has begun, but not yet completed review of the record of trial.

Through no fault of Appellant, undersigned counsel has been unable to continue further in-depth review of and prepare a brief for Appellant's case. Although undersigned counsel has completed an initial review of the ROT, this case had to be balanced against other priorities. These include undersigned counsel's other assigned cases and responsibilities. Counsel is committed to drafting and submitting an assignment of error as soon as practicable given this case's lifespan. However, an enlargement of time is necessary to allow counsel to fully review Appellant's case and advise Appellant regarding potential errors.

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

Respectfully submitted,



MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



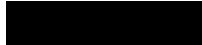
CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 1 November 2023.

Respectfully submitted,



MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME
v.)	
)	
Airman Basic (E-1)	)	ACM S32748
JAHKOB L. THOMAS, USAF,)	
<i>Appellant.</i>	)	Panel No. 3
)	

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

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

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

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

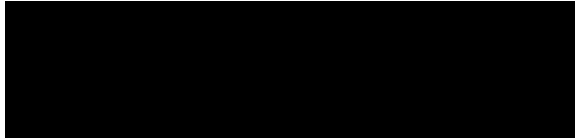


MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court, to Civilian Defense Counsel, and to the Air Force Appellate Defense Division on 6 November 2023.



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



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

UNITED STATES	)	No. ACM S32748
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Jahkob L. THOMAS)	
Airman Basic (E-1))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 3

On 1 November 2023, counsel for Appellant submitted a Motion for Enlargement of Time (Eighth) requesting an additional 30 days to submit Appellant's assignments of error. The Government opposes the motion.

The court has considered Appellant's motion, the Government's opposition, case law, and this court's Rules of Practice and Procedure. Accordingly, it is by the court on this 7th day of November, 2023,

ORDERED:

Appellant's Motion for Enlargement of Time (Eighth) is **GRANTED**. Appellant shall file any assignments of error not later than **8 December 2023**.

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



FE, Capt, USAF
Deputy Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
<i>Appellee</i>	)	TIME (NINTH) OUT OF TIME
)	
v.	)	Before Panel No. 3
)	
Airman Basic (E-1)	)	No. ACM S32748
JAHKOB L. THOMAS,)	
United States Air Force	)	5 December 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(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 Assignment of Error (AOE). Appellant filed for an enlargement of time on 1 December 2023. However, that motion contained an error in the length of time that had elapsed from the date that the record of trial was docketed with this Court on 12 January 2023 and the date of the motion. From the date of docketing to 1 December 2023, 323 days had elapsed. From the date of docketing until the present, 327 days have elapsed. Appellant respectfully withdraws the motion filed on 1 December 2023 and submits this one instead. Good cause exists because undersigned counsel filed the original motion for enlargement of time within the required timeframe. Additionally, undersigned counsel was on leave on 4 December 2023 and is filing this revised motion at the soonest practicable opportunity. Appellant requests an enlargement for a period of 30 days, which will end on **7 January 2024**. On the date requested, 360 days will have elapsed.

On 12 October 2022, Appellant was tried by a special court-martial at Keesler Air Force Base, Mississippi. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with two specifications of wrongful distribution of intimate visual images in violation of Article 117a, Uniform Code of Military Justice (UCMJ),

10 U.S.C. § 917a; one charge with two specifications of obstruction of justice in violation of Article 131b, UCMJ, 10 U.S.C. § 931b; two charges with three total specifications of assault consummated by a battery in violation of Article 128, UCMJ, 10 U.S.C. § 928; and one charge with one specification of failure to obey a lawful general regulation in violation of Article 92, UCMJ, 10 U.S.C. § 892. Record (R.) at 13, 85-86; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 5 December 2022. The military judge sentenced Appellant to forfeit two-thirds pay per month for five months, to be confined for five months,¹ and to be discharged from the service with a bad conduct discharge. R. at 118; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. AB Jakob Thomas*, dated 15 November 2022.

The record of trial is three volumes consisting of 12 prosecution exhibits, three defense exhibits, six appellate exhibits, and two court exhibits; the transcript is 119 pages. Appellant is not currently confined. Undersigned counsel has completed the initial review of the record of trial in this case. Appellant has been advised of his right to timely appeal and of this request for an enlargement of time. Appellant agrees to the request.

Counsel is currently assigned 14 cases; 9 cases are pending initial AOE's before this Court. Of those cases, 3 cases have priority over this case:

- 1) *United States v. Scott*, ACM 40411 – The record of trial is 11 volumes consisting of 14 prosecution exhibits, 14 defense exhibits, 1 court exhibit, and 55 appellate exhibits; the transcript is 1599 pages. Undersigned counsel has completed an initial review of the ROT and begun drafting an assignment of error.
- 2) *United States v. Schneider*, ACM 40403 – The record of trial is four volumes consisting of three prosecution exhibits, 26 defense exhibit, and eight appellate exhibits; the

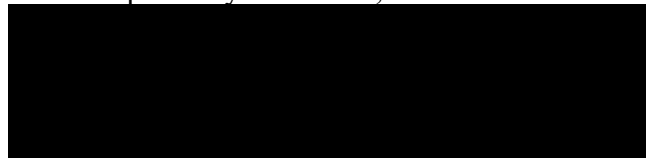
transcript is 369 pages. Undersigned counsel has completed review of the record of trial.

- 3) *United States v. Cassaberry-Folks*, ACM 40444 - The record of trial consists of seven volumes. The transcript is 375 pages. There are four Prosecution Exhibits, three Defense Exhibits, one Court Exhibit and eleven Appellate Exhibits. Undersigned counsel has begun, but not yet completed review of the record of trial.


Through no fault of Appellant, undersigned counsel has been unable to complete work on Appellant's case. Undersigned counsel has completed an in-depth review and anticipates providing a submission to this Court as soon as practicable. Counsel is balancing this along with work on an assignment of error in the matter of *United States v. Scott*. Additionally, undersigned counsel is preparing for oral arguments before this Court for *In re RW*, Misc. Dkt. No. 2023-08. Consequently, an enlargement of time is necessary for counsel to balance these various tasks towards completion.

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

Respectfully submitted,



MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



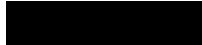
CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 5 December 2023.

Respectfully submitted,



MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME OUT
	)	OF TIME
v.)	
)	
Airman Basic (E-1)	)	ACM S32748
JAHKOB L. THOMAS, USAF,)	
<i>Appellant.</i>	)	Panel No. 3
)	

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time, Out of Time.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant 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 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.

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

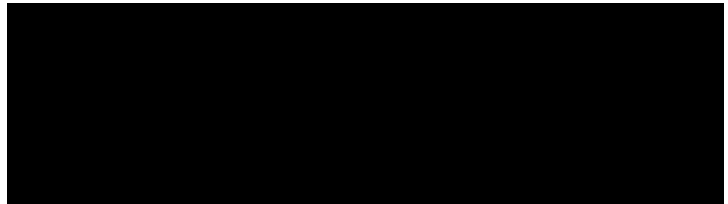


PETE FERRELL, Lt Col, USAF
Director of Operations
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court, to Civilian Defense Counsel, and to the Air Force Appellate Defense Division on 6 December 2023.



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



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

UNITED STATES	)	No. ACM S32748
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Jahkob L. THOMAS)	
Airman Basic (E-1))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 3

On 5 December 2023, counsel for Appellant submitted a Motion for Enlargement of Time (Ninth) Out of Time requesting an additional 30 days to submit Appellant's assignments of error. The Government opposes the motion.

On 8 December 2023, the court held a status conference with the parties to discuss Appellant's motion. During the status conference, counsel for Appellant indicated that he anticipates Appellant to return the paperwork required for withdrawing his case from appellate review the following week. Counsel for the Government did not provide input beyond the Government's original opposition to the motion.

The court has considered Appellant's motion, the Government's opposition, case law, and this court's Rules of Practice and Procedure. Accordingly, it is by the court on this 8th day of December, 2023,

ORDERED:

Appellant's Motion for Enlargement of Time (Ninth) Out of Time is **GRANTED IN PART**. Appellant shall file any assignments of error not later than **22 December 2023**.



FOR THE COURT



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

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
<i>Appellee</i>	)	TIME (TENTH)
)	
v.	)	Before Panel No. 3
)	
Airman Basic (E-1)	)	No. ACM S32748
JAHKOB L. THOMAS,)	
United States Air Force	)	15 December 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(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 Assignment of Error (AOE). Appellant requests an enlargement for a period of 14 days, which will end on **5 January 2024**. The record of trial was docketed with this Court on 12 January 2023. From the date of docketing to the present date, 337 days have elapsed. On the date requested, 358 days will have elapsed.

On 12 October 2022, Appellant was tried by a special court-martial at Keesler Air Force Base, Mississippi. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with two specifications of wrongful distribution of intimate visual images in violation of Article 117a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 917a; one charge with two specifications of obstruction of justice in violation of Article 131b, UCMJ, 10 U.S.C. § 931b; two charges with three total specifications of assault consummated by a battery in violation of Article 128, UCMJ, 10 U.S.C. § 928; and one charge with one specification of failure to obey a lawful general regulation in violation of Article 92, UCMJ, 10 U.S.C. § 892. Record (R.) at 13, 85-86; Record of Trial (ROT) Vol. 1, Entry of Judgment (EOJ), dated 5 December 2022. The military judge sentenced Appellant to forfeit two-

thirds pay per month for five months, to be confined for five months,¹ and to be discharged from the service with a bad conduct discharge. R. at 118; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. AB Jakob Thomas*, dated 15 November 2022.

The record of trial is three volumes consisting of 12 prosecution exhibits, three defense exhibits, six appellate exhibits, and two court exhibits; the transcript is 119 pages. Appellant is not currently confined. Undersigned counsel has completed the initial review of the record of trial in this case. Appellant has been advised of his right to timely appeal and of this request for an enlargement of time. Appellant agrees to the request.

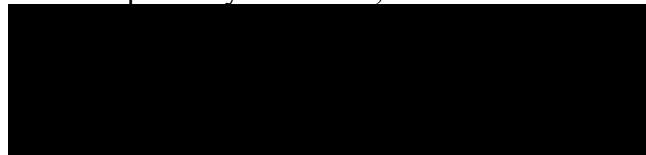
Counsel is currently assigned 14 cases; 9 cases are pending initial AOE's before this Court. Of those cases, 3 cases have priority over this case:

- 1) *United States v. Scott*, ACM 40411 – The record of trial is 11 volumes consisting of 14 prosecution exhibits, 14 defense exhibits, 1 court exhibit, and 55 appellate exhibits; the transcript is 1599 pages. Undersigned counsel has completed an initial review of the ROT and begun drafting an assignment of error.
- 2) *United States v. Schneider*, ACM 40403 – The record of trial is four volumes consisting of three prosecution exhibits, 26 defense exhibit, and eight appellate exhibits; the transcript is 369 pages. Undersigned counsel has completed review of the record of trial.
- 3) *United States v. Cassaberry-Folks*, ACM 40444 - The record of trial consists of seven volumes. The transcript is 375 pages. There are four Prosecution Exhibits, three Defense Exhibits, one Court Exhibit and eleven Appellate Exhibits. Undersigned counsel has begun, but not yet completed review of the record of trial.

As per the status conference in this case that took place on 8 December 2023, undersigned counsel is coordinating with Appellant on a motion that will bring resolution to this matter. However, undersigned counsel is still awaiting completion of important paperwork necessary to file that motion. This has been complicated by the upcoming holidays and pressing issues in other cases that undersigned counsel has been working through. Accordingly, an enlargement of time is necessary to bring this matter to completion.

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

Respectfully submitted,



MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



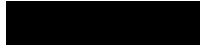
CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 15 December 2023.

Respectfully submitted,



MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

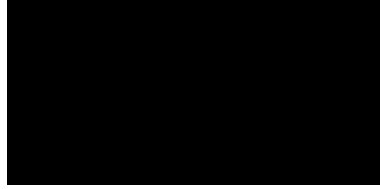
UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME OUT
	)	OF TIME
v.)	
)	
Airman Basic (E-1)	)	ACM S32748
JAHKOB L. THOMAS, USAF,)	
<i>Appellant.</i>	)	Panel No. 3
)	

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time, Out of Time.

The United States respectfully maintains that short of a death penalty case or other extraordinary circumstances, it should not take any appellant 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 358 days in length. Appellant's year-long delay practically ensures this Court will not be able to issue a decision that complies with our superior Court's appellate processing standards. Appellant has already consumed almost two-thirds of the 18-month standard for this Court to issue a decision, which only leaves about 6 months combined for the United States and this Court to perform their separate statutory responsibilities.

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

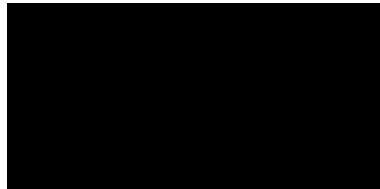


JOCELYN Q. WRIGHT, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court, to Civilian Defense Counsel, and to the Air Force Appellate Defense Division on 19 December 2023.



JOCELYN Q. WRIGHT, Capt, USAF
Appellate Government Counsel
Government Trial and Appellate Operations Division
Military Justice and Discipline Directorate
United States Air Force



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MOTION FOR ENLARGEMENT OF
<i>Appellee</i>	)	TIME (ELEVENTH) OUT OF TIME
)	
v.	)	Before Panel No. 3
)	
Airman Basic (E-1)	)	No. ACM S32748
JAHKOB L. THOMAS,)	
United States Air Force	)	4 January 2023
<i>Appellant</i>)	

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

Pursuant to Rule 23.3(m)(3) and (6) of this Honorable Court’s Rules of Practice and Procedure, Appellant hereby moves for an eleventh enlargement of time to file an Assignment of Error (AOE). Appellant requests an enlargement for a period of 14 days, which will end on **19 January 2024**. The record of trial was docketed with this Court on 12 January 2023. From the date of docketing to the present date, 357 days have elapsed. On the date requested, 372 days will have elapsed. Good cause exists to file this motion out of time because of unanticipated complications that have prevented resolution of this matter.

On 12 October 2022, Appellant was tried by a special court-martial at Keesler Air Force Base, Mississippi. In accordance with his pleas and pursuant to a plea agreement, the military judge found Appellant guilty of one charge with two specifications of wrongful distribution of intimate visual images in violation of Article 117a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 917a; one charge with two specifications of obstruction of justice in violation of Article 131b, UCMJ, 10 U.S.C. § 931b; two charges with three total specifications of assault consummated by a battery in violation of Article 128, UCMJ, 10 U.S.C. § 928; and one charge with one specification of failure to obey a lawful general regulation in violation of Article 92, UCMJ, 10 U.S.C. § 892. Record (R.) at 13, 85-86; Record of Trial (ROT) Vol. 1, Entry of

Judgment (EOJ), dated 5 December 2022. The military judge sentenced Appellant to forfeit two-thirds pay per month for five months, to be confined for five months,¹ and to be discharged from the service with a bad conduct discharge. R. at 118; EOJ. The convening authority took no action on the findings and approved the sentence in its entirety. ROT Vol. 1, Convening Authority Decision on Action – *United States v. AB Jakob Thomas*, dated 15 November 2022.

The record of trial is three volumes consisting of 12 prosecution exhibits, three defense exhibits, six appellate exhibits, and two court exhibits; the transcript is 119 pages. Appellant is not currently confined. Undersigned counsel has completed the initial review of the record of trial in this case. Appellant has been advised of his right to timely appeal and of this request for an enlargement of time. Appellant agrees to the request.

Counsel is currently assigned 14 cases; 9 cases are pending initial AOE's before this Court. Of those cases, 3 cases have priority over this case:

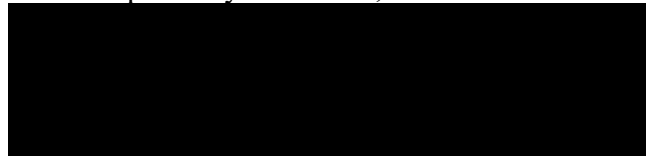
- 1) *United States v. Scott*, ACM 40411 – The record of trial is 11 volumes consisting of 14 prosecution exhibits, 14 defense exhibits, 1 court exhibit, and 55 appellate exhibits; the transcript is 1599 pages. Undersigned counsel has completed an initial review of the ROT and begun drafting an assignment of error.
- 2) *United States v. Schneider*, ACM 40403 – The record of trial is four volumes consisting of three prosecution exhibits, 26 defense exhibit, and eight appellate exhibits; the transcript is 369 pages. Undersigned counsel has completed review of the record of trial.
- 3) *United States v. Cassaberry-Folks*, ACM 40444 - The record of trial consists of seven volumes. The transcript is 375 pages. There are four Prosecution Exhibits, three

Defense Exhibits, one Court Exhibit and eleven Appellate Exhibits. Undersigned counsel has begun, but not yet completed review of the record of trial.

As per the status conference in this case that took place on 8 December 2023, undersigned counsel continues to anticipate resolution of this matter. However, undersigned counsel is still awaiting completion of important paperwork necessary for that. This has been further complicated by the holiday the season. Accordingly, an enlargement of time is necessary to bring this matter to completion.

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

Respectfully submitted,



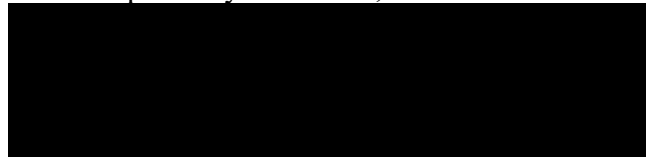
MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 4 January 2024.

Respectfully submitted,



MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division
United States Air Force



IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	UNITED STATES' OPPOSITION
<i>Appellee,</i>	)	TO APPELLANT'S MOTION FOR
	)	ENLARGEMENT OF TIME OUT
	)	OF TIME
v.)	
)	
Airman Basic (E-1)	)	ACM S32748
JAHKOB L. THOMAS, USAF,)	
<i>Appellant.</i>	)	Panel No. 3
)	

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

Pursuant to Rule 23.2 of this Court's Rules of Practice and Procedure, the United States hereby enters its opposition to Appellant's Motion for Enlargement of Time, Out of Time.

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

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

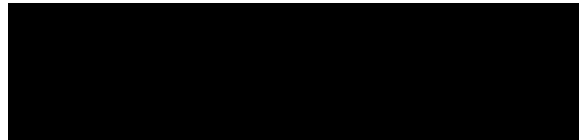


MARY ELLEN PAYNE
Associate Chief, Government Trial and
Appellate Operations Division
Military Justice and Discipline
United States Air Force



CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was delivered to the Court, to Civilian Defense Counsel, and to the Air Force Appellate Defense Division on 5 January 2024.



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



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

UNITED STATES	)	No. ACM S32748
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Jahkob L. THOMAS)	
Airman Basic (E-1))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 3

On 4 January 2024, counsel for Appellant submitted a Motion for Enlargement of Time (Eleventh) Out of Time requesting an additional 14 days to submit Appellant’s assignments of error. The Government opposes the motion.

On 5 December 2023, counsel for Appellant submitted a Motion for Enlargement of time (Ninth), *also* Out of Time for a period of 30 days. The court granted this motion after a status conference was held on 8 December 2023 in which “counsel for Appellant indicated that he anticipates Appellant to return paperwork required for withdrawing his case from appellate review *the following week.*” (Emphasis added). *See* court order dated 8 December 2023. On 15 December 2023, only 7 days after the status conference, counsel for Appellant submitted a Motion for Enlargement of Time (Tenth) for a period of 14 days because Appellant’s counsel “is still awaiting completion of the important paperwork necessary to file [the withdrawal] motion.” The court granted this motion on 20 December 2023, with a new filing date of 5 January 2024.

In Appellant’s recent filing for an eleventh enlargement of time out of time—the day before his brief is due—counsel for Appellant again states that he “is still awaiting completion of important paperwork necessary [to file the withdrawal motion],” and that “[t]his has been further complicated by the holiday [] season.”

This court’s Rule 18.5 states that “[a]ny filing that is submitted out of time shall so indicate in the caption and shall *articulate good cause* for why the filing is out-of-time.” A.F. Ct. Crim. App. R. 18.5 (emphasis added). Counsel for Appellant has not shown good cause for why this recent filing is out of time.

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

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

ORDERED:

Appellant's Motion for Enlargement of Time (Eleventh) Out of Time is **DE-**
NIED.



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES	)	MERITS BRIEF OUT OF TIME
<i>Appellee</i>)	
)	
v.	)	Before Panel No. 3
)	
Airman Basic (E-1)	)	No. ACM S32748
THOMAS L. JAHKOB)	
United States Air Force	)	Filed on: 8 January 2024
<i>Appellant</i>)	

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

Submission of Case Without Specific Assignment of Error

The undersigned appellate defense counsel attests he has, on behalf of Appellant, carefully examined the record of trial in this case. Appellant does not admit the findings or sentence are correct in law and fact, but submits the case to this Honorable Court on its merits with no specific assignment of error.

Good cause exists to file this submission out of time because Appellant moved for an enlargement of time on 4 January 2024. Although this Court denied that motion, notice of the denial was not rendered until 1405 on 5 January 2024, and only upon the Air Force Appellate Defense Division’s workflow email. Undersigned counsel does not have access to that workflow account and only receives documents submitted to that workflow when forwarded. Due to a combination of factors outside the control of undersigned counsel that affected those with access to the account, to include an Appellate Defense Division member’s unanticipated illness and another’s absence to obtain a new identification card needed for computer access, the order was not forwarded to undersigned counsel until 8 January 2024. Accordingly, Appellant

respectfully requests for this court to receive this submission on the merits out of time.

Respectfully Submitted,

A large black rectangular redaction box covering the signature area.

MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division, AF/JAJA

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

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Appellate Government Division on 8 January 2024.

Respectfully Submitted,

A large black rectangular redaction box covering the signature of Michael J. Bruzik.

MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Appellate Defense Division, AF/JAJA

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

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

UNITED STATES	)	No. ACM S32748
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Jahkob L. THOMAS)	
Airman Basic (E-1))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 3

On 15 December 2023, counsel for Appellant submitted a Motion for Enlargement of Time (Tenth) requesting an additional 14 days to submit Appellant’s assignments of error. The Government opposed the motion. The court granted the motion and set the new deadline of 5 January 2024 for Appellant’s assignments of error to be filed.

On 4 January 2024, counsel for Appellant submitted a Motion for Enlargement of Time (Eleventh) Out of Time requesting an additional 14 days to submit Appellant’s assignments of error. The Government opposed the motion. The court denied the motion on 5 January 2024.

On 8 January 2024, counsel for Appellant submitted a Merits Brief Out of Time with no specific assignments of error.* On 10 January 2024, a status conference was held to discuss the submissions and the timing of the filings in this case. Ms. Megan P. Marinos and Captain Michael J. Bruzik represented Appellant. Ms. Mary Ellen Payne represented Appellee. Counsel for Appellant confirmed that they have had enough time to review the case and it was their intent to submit the case on its merits. They echoed their articulation in earlier filings that they previously anticipated a withdrawal of appellate review and a withdrawal may come at a later date; however, at the time of the status conference there was no withdrawal, and counsel for Appellant confirmed Appellant purposely submitted his case on its merits for the court’s review.

The court has considered the parties filings, case law, and this court’s Rules of Practice and Procedure.

Accordingly, it is by the court on this 11th day of January, 2024,

ORDERED:

* The court notes that Appellant’s name is incorrect in the header of this merits brief.

Appellant's Merits Brief Out of Time is **GRANTED**, and the court accepts Appellant's case on its merits with no specific assignments of error.



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

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

UNITED STATES	)	No. ACM S32748
<i>Appellee</i>)	
)	
v.)	
	)	ORDER
Jahkob L. THOMAS)	
Airman Basic (E-1))	
U.S. Air Force)	
<i>Appellant</i>	)	Panel 3

On 8 January 2024, counsel for Appellant submitted the record for review by this court without any specific assignment of error.

Having reviewed the record, this court notes the military judge found Appellant guilty, pursuant to his pleas, *inter alia*, of Specification 2 of Charge I alleging Appellant “distribute[d] a visual image of sexually explicit conduct involving [LF], to wit: [Appellant] penetrating [LF’s] vulva with his penis . . .” in violation of Article 117a, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 917a.* During the providency inquiry, Appellant informed the military judge that, “to be clear, the act of [his] penis actually penetrating [LF’s] vulva was not visible in the image, however, her buttocks, back, and hair were visible.” Article 117a(b)(6), UCMJ, defines “sexually explicit conduct” as “actual or simulated genital-genital contact, oral-genital contact, anal-genital contact, or oral-anal contact . . . , bestiality, masturbation, or sadistic or masochistic abuse.” 10 U.S.C. § 917a(b)(6). The military judge accepted Appellant’s guilty plea notwithstanding Appellant’s assertion that the genital-genital contact alleged in the specification was not “visible” in the image in question. *See* Article 45(a), UCMJ, 10 U.S.C. § 845(a) (“If an accused . . . after a plea of guilty sets up matter inconsistent with the plea . . . a plea of not guilty shall be entered in the record”); *United States v. Inabinette*, 66 M.J. 320, 322 (C.A.A.F. 2008) (“A military judge abuses [her] discretion if [s]he fails to obtain from the accused an adequate factual basis to support the plea”) (Citation omitted).

In addition, the convening order which convened the special court-martial which convicted and sentenced Appellant is not present in the original record of trial. *See* Rule for Courts-Martial (R.C.M.) 1112(b)(3) (requiring the record of trial in every special court-martial to include a “copy of the convening order

* All references in this order to the UCMJ and Rules for Courts-Martial are to the *Manual for Courts-Martial, United States* (2019 ed.).

and any amending order”). Moreover, the attachments to the preliminary hearing report are also not present with the original record of trial. *See* R.C.M. 1112(f)(1)(A) (requiring the preliminary hearing report to be attached to the certified record of trial for appellate review).

This court specifies the following issues for briefing by the parties:

I.

DID THE MILITARY JUDGE ABUSE HER DISCRETION BY ACCEPTING APPELLANT’S GUILTY PLEA TO SPECIFICATION 2 OF CHARGE I WHERE APPELLANT ASSERTED THE SEXUALLY EXPLICIT CONDUCT REFERRED TO IN THE SPECIFICATION WAS NOT VISIBLE IN THE VISUAL IMAGE REFERRED TO IN THE SPECIFICATION?

II.

SHOULD THIS COURT TAKE CORRECTIVE ACTION BECAUSE THE CONVENING ORDER AND ATTACHMENTS TO THE PRELIMINARY HEARING REPORT ARE MISSING FROM THE ORIGINAL RECORD OF TRIAL?

Accordingly, it is by the court on this 7th day of February, 2024,

ORDERED:

Counsel for both parties shall submit briefs not later than **7 March 2024**. Reply briefs will be accepted not later than **7 days** from the later of the date when both briefs are filed with this court or the time to submit briefs has expired.



FOR THE COURT



CAROL K. JOYCE
Clerk of the Court

IN THE UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,	)	MOTION TO WITHDRAW FROM
<i>Appellee,</i>	)	APPELLATE REVIEW AND ATTACH
)	
v.	)	Before Panel No. 3
)	
Airman Basic (E-1),	)	No. ACM S32748
THOMAS L. JAHKOB,)	
United States Air Force,	)	23 February 2024
<i>Appellant.</i>)	

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

Pursuant to Rule 16 of the Rules of Practice and Procedure of the United States Air Force Court of Criminal Appeals and Rule for Courts-Martial (R.C.M.) 1115, Appellant moves to withdraw his case from appellate review. Appellant has fully consulted with Captain Michael J. Bruzik, his appellate defense counsel, regarding this motion to withdraw. No person has compelled, coerced, or induced Appellant by force, promises of clemency, or otherwise, to withdraw his case from appellate review. Further, pursuant to Rules 23(b) and 23.3(b), undersigned counsel asks this Court to attach the two-page document appended to this pleading to the record of this proceeding. The appended document is necessary to comply with R.C.M. 1115(d).

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

Respectfully submitted,

A large black rectangular redaction box covering the signature of Michael J. Bruzik.

MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

A black rectangular redaction box covering the contact information of Michael J. Bruzik.

CERTIFICATE OF FILING AND SERVICE

I certify that the original and copies of the foregoing were sent via email to the Court and served on the Government Trial and Appellate Division on 23 February 2024.

Respectfully submitted,



MICHAEL J. BRUZIK, Capt, USAF
Appellate Defense Counsel
Air Force Appellate Defense Division

