

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES,

Appellee

v.

Specialist (E-4)
DAVID P. VANBUREN
United States Army,
Appellant

**MOTION TO FILE OUT OF TIME
AND MOTION FOR EXTENSION
OF TIME (2)**

Docket No. ARMY 20220062

Tried at Wheeler Army Airfield,
Hawaii, on 6 December 2021, 4
February 2022 and 14-16 February
2022, before a general court martial,
appointed by the Commander, Eighth
Army, Lieutenant Colonel Michael
Korte, military judge, presiding.

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES ARMY
COURT OF CRIMINAL APPEALS

COMES NOW the undersigned appellate defense counsel, pursuant to
Rules 23 and 24 of this court's Rules of Appellate Procedure, and moves this
court to grant appellant's motion to file out of time, and for a 30-day
extension of time until **13 December 2022** to file a Brief on Behalf of
Appellant.

1. Consistent with Army Reg. 27-26, Rules of Professional Conduct for
Lawyers, undersigned counsel request additional time to ensure that
all due diligence has been done to adequately review, investigate,
research, and brief the assignments of error in this case and to fulfill
counsel's ethical obligation to represent Appellant's interest.

2. The record of trial is 631 pages. This is a contested case, and an enlisted panel sitting as a general court martial found appellant guilty, contrary to his plea, of three specifications of abusive sexual contact, and one specification of wrongful impersonation of a military police investigator, in violation of Articles 120 and 106, UCMJ. (Charge Sheet). An enlisted panel sentenced appellant to be confined for sixteen months, reduced to the grade of E-1, and to be discharged from the service with a bad-conduct discharge. Appellant consents to the extension.
3. The due date was 13 November 2022, and the request for an extension of time to file the brief on behalf of appellant was due on 8 November 2022. This motion is late due to undersigned counsel's miscommunication. [REDACTED] has not been able to finalize the draft of the Brief on Behalf of Appellant with either the detailed military appellate counsel or Appellant, due to other obligations and cases as a result of delays caused by medical issues [REDACTED] experienced this fall, which created a backlog of casework. Additional time is needed to allow [REDACTED] and undersigned appellate counsel to finalize the draft Brief.

WHEREFORE, appellate defense counsel respectfully requests that
this court grant the instant motion.

PANEL NO. 4

MOTION FOR LEAVE TO
FILE OUT OF TIME

GRANTED:

DENIED:

DATE: 16 NOV 2022

MOTION FOR EXTENSION
(2)

GRANTED:

DENIED:

DATE: 16 NOV 2022

For WILLIAM CASSARA
Civilian Appellate Counsel
Office of William E. Cassara

SARAH H. BAILEY
CPT, JA
Appellate Defense Counsel

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was electronically submitted to Army
Court and Government Appellate Division on November 15, 2022.



MICHELLE L.W. SURRATT
Paralegal Specialist
Defense Appellate Division

