

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES

**MOTION TO ATTACH DEFENSE
APPELLATE EXHIBITS A-C**

Appellee

v.

Docket No. ARMY 20210092

Private (E-1)

KELVIN T. WINFIELD ,

United States Army

Appellant

Tried at Fort Bragg, North Carolina, on 20 October and 29 December 2020, and 2-3 March 2021, before a general court-martial appointed by the Commander, Headquarters, Fort Bragg, Colonel Fansu Ku, Military Judge, presiding.

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

COME NOW the undersigned appellate defense counsel, pursuant to Rule 23(b) of this court's Rules of Appellate Procedure, and move this court to attach the following to the record:

a. Post-Trial Processing Letter, *U.S. v. Fuller* (20200729), as Defense Appellate Exhibit A;

b. Post-Trial Processing Letter, *U.S. v. Butcher* (20210168), as Defense Appellate Exhibit B; and

c. Post-Trial Processing Letter, *U.S. v. Young* (20210458), as Defense Appellate Exhibit C.

The above appellate exhibits demonstrate that the post-trial processing letter provided in the case at bar is merely a standard form letter the prosecuting jurisdiction includes in many of its cases that exceed the standard post-trial

processing timeline. The letters provided in Defense Appellate Exhibits A, B, and C are practically identical to the letter provided by the government in appellant's case in an attempt to explain the delay in the instant case, and not a particularized explanation providing reasonable grounds for the excessive delay. *See United States v. Canchola*, 64. M.J. 245, 247 (C.A.A.F. 2007).¹

WHEREFORE, appellate defense counsel respectfully request that this court grant this motion to attach and consider the matters presented.

PANEL NO. 1

MOTION TO ATTACH DEFENSE
APPELLATE EXHIBIT A

GRANTED: _____

DENIED: _____

DATE: 10 January 2023

MOTION TO ATTACH DEFENSE
APPELLATE EXHIBIT B

GRANTED: _____

DENIED: _____

DATE: 10 January 2023

Rachel P. Gordienko
Major, Judge Advocate
Branch Chief
Defense Appellate Division

Jonathan F. Potter
Senior Appellate Capital Counsel
Defense Appellate Division

¹ If this court declines to grant this motion, appellant requests this court take judicial notice of the facts contained therein, because such facts are a matter of public record and not subject to dispute. *See United States v. Paul*, 73 M.J. 274 (C.A.A.F. 2014).

MOTION TO ATTACH DEFENSE
APPELLATE EXHIBIT C

GRANTED: _____

DENIED:

DATE: 10 January 2023