

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES,
Appellee

**MOTION FOR EXTENSION (2)
ON REMAND**

v.

Docket No. ARMY 20180058

Major (O-4)
DAVID J. RUDOMETKIN
United States Army,
Appellant

Tried at Redstone Arsenal, Alabama, on 8 November and 20 December 2016; 3 February, 31 May, 10 August, and 15 September 2017; and 29–31 January, 1–2 February, 12 March, 22 June, and 6 September 2018; before a general court-martial appointed by the Commander, U.S. Army Aviation and Missile Command, Lieutenant Colonel Richard Henry, Colonel Jeffrey R. Nance, and Colonel Douglas K. Watkins, military judges, presiding.

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

COME NOW the undersigned appellate defense counsel, pursuant to Rules 23 and 24.1 of this court's Rules of Appellate Procedure, and move this court for a 30-day extension of time until 4 January 2022 to file a Brief on Behalf of Appellant on Remand for Further Review.

1. Consistent with Army Regulation 27-26, Rules of Professional Conduct for Lawyers, the undersigned counsel request additional time to ensure that counsel have diligently investigated, thoroughly researched, and appropriately briefed the assignments of error in this case in order to fulfill counsel's ethical obligation to represent the appellant's interest.
2. This was a contested case. The trial transcript contains 1,541 pages and the original complete record contained an additional 1,398 pages of exhibits and allied documents (plus sealed exhibits). Following remand, an

additional 1,221 pages of post-trial documents were added to the record. The sentence was adjudged on 6 September 2018, and it included dismissal and confinement for seventeen years. On 9 November 2021, this court set aside the findings and sentence. On 15 August 2022, the Court of Appeals for the Armed Forces (CAAF) reversed this court's decision and remanded the case for further review under Article 66, UCMJ. Appellant is still in confinement. Appellant concurs with this request.

3. Appellant's brief on remand is currently due on 5 December 2022. Appellant requests this court grant an additional 30-day extension of time to 4 January 2022. This is appellant's second request for an extension of time.

4. First undersigned counsel was at oral argument in *United States Rivera*, an Article 62 appeal at the Navy-Marine Corps Court of Criminal Appeals on 15 November 2022 and at Fort Meade from 25 to 28 November 2022 for arraignment in *United States v. Bonney* and motions for *United States v. McKinley*. First undersigned counsel also has ten other cases at the service Courts of Criminal Appeals and CAAF.

5. Second undersigned counsel is currently drafting the reply in *United States v. Hasan*, a capital case currently before the CAAF. Second undersigned counsel also has significant responsibilities conducting supervisory review on draft briefs and motions, and for preparing counsel for oral argument. He is second-chairing an argument on 6 December 2022 before this court in *United States v. Wainiopa*, and he is second-chairing another argument on 7 December 2022 at CAAF (*United States v. Vargas*).

6. Third undersigned counsel is currently assigned 28 cases (23 contested) with approximately 15,700 transcript pages pending before this court and CAAF. In the next thirty days, third undersigned counsel has three other initial briefs due to this court, and three supplements due to CAAF.

7. Second and third undersigned counsel were assigned to appellant's case after completion of the prior briefing before this court.

8. Appellant requires additional time to prepare his personal matters for submission to the court. Since appellant is still confined, undersigned counsel require additional time due to delays in transmitting documents and coordinating teleconferences with appellant.

9. The undersigned counsel request additional time to review the record, research issues, confer with appellant, and complete appellant's brief.

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

PANEL NO. 4

MOTION FOR EXTENSION (2)
ON REMAND

GRANTED:

DENIED:

DATE: 1 DEC 2022


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CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was electronically submitted to the
Army Court and Government Appellate Division on 30 November 2022.



ANDREW R. BRITT
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