

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
WALKER, EWING, and PARKER
Appellate Military Judges

UNITED STATES, Appellee
v.
Private First Class ANDREW R. WALLS
United States Army, Appellant

ARMY 20220667

ORDER

WHEREAS:

On 9 August 2022, a military judge sitting as a special court-martial convicted the accused, in accordance with his pleas, of five drug-related specifications under Article 112a, Uniform Code of Military Justice (UCMJ). The military judge sentenced the accused to twenty-five days of confinement, reduction to the grade of E-1, and forfeiture of \$1000 for three months.

On 1 March 2022, the accused was notified of his right to appeal pursuant to Article 66(b)(1), UCMJ, and the certified record of trial was forwarded to the Defense Appellate Division. This notification of appellate rights informed the accused that his intent to file an appeal must be received by this Court within ninety days. The ninety-day deadline was on 30 May 2023.

On 7 June 2023, the accused's election to appeal was received by this Court. The election form is dated 31 May 2023, and the envelope the election was mailed in was postmarked on 1 June 2023. All three dates exceed the ninety-day deadline.

On 27 July 2023, appellate defense counsel filed a motion for extension with this Court, asserting incorrectly that the filing deadline for this case is on 6 August 2023. The ruling on this motion was served on 31 July 2023.

Given the accused's election to appeal is not timely, this Court does not have jurisdiction to review this case. *See generally United States v. Rodriguez*, 67 M.J. 110 (C.A.A.F. 2009) (determining the Supreme Court has held that where a limitation is derived from a statute the taking of an appeal within the prescribed time is mandatory and jurisdictional).

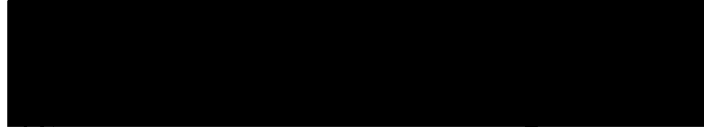
NOW THEREFORE, IT IS ORDERED:

The previous ruling for the motion for extension is hereby VACATED.
The above-captioned case is hereby DISMISSED for a lack of jurisdiction.

WALLS — ARMY 20220667

DATE: 2 August 2023

FOR THE COURT:



JAMES W. HERRING, JR.
Clerk of Court

CF: JALS-DA
JALS-GA
JALS-CCR
JALS-TJ
JALS-CR4