

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

MOTION FOR EXTENSION (2)

v.

Docket No. ARMY 20220248

Staff Sergeant (E-6)
DANIEL D. HERMAN,
United States Army,

Appellant

Tried at Fort Hood, Texas, on 10-14
May 2022, before a general court-
martial appointed by the Commander,
Headquarters, III Corps and Fort
Hood, Lieutenant Scott Z. Hughes,
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 for Extension of Time. The undersigned appellate defense counsel requests a thirty-day extension of time until 25 July 2023 to file a Brief on Behalf of Appellant. The Brief on Behalf of Appellant is currently due on 25 June 2023. Pursuant to Rule 24.1(b), the undersigned counsel asserts:

1. On 14 May 2022, a military judge sitting as a general court-martial convicted appellant, Staff Sergeant Daniel D. Herman, contrary to his pleas, of six specifications of a violation of Article 117a, Uniform Code of Military Justice, 10 U.S.C. § 917a [UCMJ], and one specification of a violation of Article 107, UCMJ. (Statement of Trial Results). On the same date, the military judge sentenced

appellant to thirteen months confinement for each specification, reduction to E-1, and a bad conduct discharge. (Statement of Trial Results; R. at 1154). On 23 May 2022, the convening authority approved the findings and adjudged sentence. (Convening Authority Action). On 13 June 2022, the military judge entered Judgment. (Judgment of the Court). This court docketed appellant's case on 26 January 2023. (Referral and Designation of Counsel). Appellant is not in confinement.

2. Appellant's record of trial was received in the Defense Appellate Division on 26 January 2023. The transcript is 1,155 pages and the entire record is 2,700 pages. The current due date is 25 June 2023. Appellant concurs with this request for delay.

3. The undersigned counsel was assigned to this case on 31 January 2023. The record involves over forty sealed exhibits with thirty-seven of those exhibits consisting of exhibits admitted a trial and subsequently sealed.

4. Counsel has identified several errors necessitating further research and further review of the record, to include additional review of the sealed materials which encompass over forty sealed exhibits, thirty-seven of which were exhibits admitted during trial.

5. The undersigned counsel currently has seven additional cases pending before this court. Additionally, undersigned counsel is the co-counsel on *United*

States v. Henderson and *United States v. Spitz*, scheduled for oral argument before this court on 5 and 6 July, respectively.

6. Consistent with counsel’s state bar rules and Army Reg. 27-26, Rules of Professional Conduct for Lawyers, the undersigned requests additional time to ensure that all due diligence has been done to adequately review, investigate, research, and draft matters on behalf of appellant, as well as fulfill counsel’s ethical obligation to represent his interests.

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

PANEL NO. 2

MOTION FOR
EXTENSION (2)

GRANTED: 

DENIED: _____

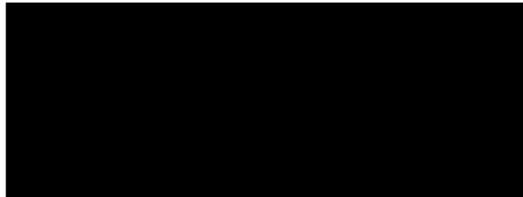
DATE: 14 June 2023



Mitchell D. Herniak
Major, Judge Advocate
Appellate Defense Counsel
Defense Appellate Division

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was electronically submitted to Army Court and Government Appellate Division on June 12, 2023.



MICHELLE L.W. Surratt
Paralegal Specialist
Defense Appellate Division

