

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES,
Appellee

MOTION FOR EXTENSION (5)

v.

Docket No. ARMY 20220022

Staff Sergeant (E-6)
SAMUEL A. FYE
United States Army,
Appellant

Tried at Fort Bragg, North Carolina, on
16 September, 6-9 December 2021,
19-20 January 2022, before a general
court-martial appointed by the
Commander, Headquarters, 1st Special
Forces Command, Colonel G. Bret
Batdorff and Lieutenant Colonel
Trevor I. Barna, 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 of this Court's Internal Rules of Practice and Procedure and move this court to grant appellant's Motion for Extension of Time. The undersigned appellate defense counsel requests a 30-day extension of time, until 1 August 2023, to file a Brief on Behalf of Appellant. The Brief on Behalf of Appellant is currently due on 2 July 2023. Pursuant to Rule 24.1(b), the first undersigned counsel asserts:

1. On 20 January 2022, an enlisted panel sitting as a general court-martial, found Staff Sergeant (SSG) Samuel L. Fye (appellant) guilty contrary to his plea of one specification of sexual assault, one specification of assault consummated by battery, and one specification of drunkenness in violation of Articles 120, 128, and 134, Uniform

Code of Military Justice, 10 U.S.C. §920, 928, and 934 (2018) [UCMJ]. The military judge sentenced appellant to three-year confinement and dishonorable discharge. On 28 February 2022, the convening authority took no action.

2. This court referred appellant's case on 4 November 2022. Undersigned counsel received the record of trial which included 1364 transcript pages, approximately 820 pages of other documents, and additional sealed exhibits and records to review.

3. Appellant did not receive the copy of his Record of Trial until February 2023.

4. Undersigned civilian defense attorney was hired to represent appellant in this case in March 2023. In addition to this case, civilian defense counsel is representing 15 other appellants before this Court, two before the Air Force Court of Criminal Appeals, two before the Navy-Marine Corps Court of Criminal Appeals, seven before the Court of Appeals for the Armed Forces, and nine other clients in other federal courts.

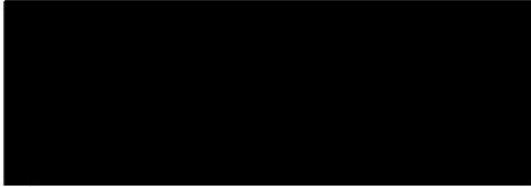
5. Counsel acknowledge that the fourth motion for extension was marked by this Court as final. Counsel respectfully requests that this Court grant additional time to complete the brief in this case and allow it to be reviewed by the client in the confinement facility. The extensive record in this case, as well as the complex issues raised at the trial level, leave counsel unable to ensure that all due diligence in adequately reviewing, researching, and briefing the issues in this case can be complete by the current due date.

6. Appellant is confined at Joint Regional Correctional Facility, Fort Leavenworth and endorses this request.

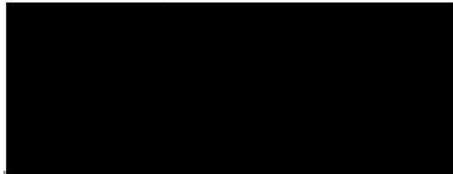
WHEREFORE, appellate defense counsel respectfully request that this court grant the instant motion.

Panel 4

MOTION FOR EXTENSION



FOR
William E. Cassara
Civilian Appellate Counsel



GRANTED: in part (until 17 July 2023)

DENIED: in part

DATE: 27 JUN 2023

TUMENTUGS D. ARMSTRONG
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 June 23, 2023.



MICHELLE L.W. Surratt
Paralegal Specialist
Defense Appellate Division

