

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

MOTION FOR EXTENSION (4)

v.

Docket No. ARMY 20220160

Private First Class (E-3)

STEFON M. REID,

United States Army,

Appellant

Tried at Fort Polk,¹ Louisiana, on 9 and 30-31 March 2022 and 1 April 2022, before a general court-martial appointed by the Commander, Joint Readiness Training Center and Fort Polk, LTC Scott Z. Hughes, 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 Rules 23 and 24 of this court's Rules of Appellate Procedure, and move this court to grant appellant's Motion for Extension of Time. The undersigned appellate defense counsel request a 30-day extension of time until 6 December 2023 to file a Brief on Behalf of Appellant. The Brief on Behalf of Appellant is currently due on 6 November 2023. Pursuant to Rule 24.1(b), the undersigned counsel assert:

1. On 1 April 2022, a military judge sitting as a general court-martial convicted appellant, Private First Class Stefon M. Reid, contrary to his pleas, of Sexual Assault, in violation of Article 120, Uniform Code of Military Justice, 10

¹ Now named Fort Johnson.

U.S.C. § 920 [UCMJ] (The Charge, Specification 1).² (R. at 432; Charge Sheet).

On the same day, the military judge sentenced appellant to be discharged from the service with a dishonorable discharge, to be reduced to the grade of E-1, and to be confined for three years. (R. at 480).

On 2 February 2023, the convening authority took no action. (Convening Authority Action). On 9 March 2023, the military judge entered Judgment. (Judgment of the Court). This court docketed appellant's case on 10 April 2023. (Referral and Designation of Counsel).

2. Appellant's record of trial was received in the Defense Appellate Division on 11 April 2023, and is 1,073 pages long. The current due date 6 November 2023. Appellant concurs with this request for delay.

3. The first undersigned counsel was assigned to this case on 20 April 2023. In the ninety days comprising extension one, the first undersigned counsel filed the following: *United States v. SFC Aaron J. Jesmer*, Army 20220307 (Motion to Withdraw); *United States v. Haynes O. Gibson*, Army 20220203 (one assignment of error); *United States v. Dominic Diaz*, Army 20220596 (P1 Brief with matters raised pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982)); and *United States v. Garciamoya*, Army 20230131 (P1 Brief).

² The military judge found defendant not guilty of Rape, in violation of UCMJ, Article 120.

4. In the 60 days comprising extensions two and three, the first undersigned counsel filed the following: *United States v. Javius R. Forbes*, Army 20230027 (P1 Brief); and *United States v. Erick R. Felix*, Army 20220558 (two assignments of error – to be filed prior to the current 3 November 2023 deadline). The undersigned defense counsel currently has three cases before this court. Additionally, the undersigned defense counsel is a reservist who is a U.S. Immigration Judge in his civilian capacity. Prior to this, the undersigned defense counsel worked as an assistant United States Attorney (AUSA) until September 24, 2023, when he transitioned into the new role. In this capacity, the undersigned defense counsel was assigned approximately thirty cases currently pending in federal court, including twelve cases pending jury trial. Due to transitioning jobs during the 30 days comprising extension two, the undersigned defense counsel had to complete multiple filings in assigned cases as an AUSA prior to leaving, including, among other things, an opposition to a *Habeas Corpus* petition, the filing of two indictments, three sentencing position papers, and two plea agreements.

5. This case further involves approximately sixty-six pages of under seal transcript. Due to the first undersigned defense counsel being a reservist, counsel was not able to review the underseal material until 7 August 2023, when counsel was at USALSA for annual training. Following the review of the sealed material,


the undersigned defense counsel sent a *Dorman* waiver to the trial defense counsel on August 11, 2023, and received a copy of the trial defense counsel's case file on September 11, 2023. This request is made, in part, to allow counsel to review the matters received pursuant to the *Dorman* waiver and to discuss the material with appellant in preparation for the filling of the Brief on Behalf of Appellant.

6. Consistent with Army Reg. 27-26, Rules of Professional Conduct for Lawyers, undersigned request additional time to ensure 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 request that this court grant the instant motion.

PANEL NO. 2

MOTION FOR
EXTENSION (4)

GRANTED: 

DENIED: _____

DATE: 1 November 2023



Jake D. Nare
Major, Judge Advocate
Appellate Defense Counsel
Defense Appellate Division



Mitchell D. Herniak
Major, Judge Advocate
Branch Chief
Defense Appellate Division

FINAL

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was electronically submitted to Army
Court and Government Appellate Division on October 30, 2023.



MICHELLE L.W. SURRATT
Paralegal Specialist
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