

**IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS**

UNITED STATES

Appellee

**FIRST MOTION FOR  
EXTENSION TO FILE REPLY**

v.

Docket No. ARMY 20220427

Sergeant First Class (E-7)

**BRIAN J. DIVINE**

United States Army,

Appellant

Tried at Fort Hood, Texas, United State of America on August 24, 2022, before a General Court-Martial convened by Commander, III Corps, Lieutenant General Robert P. White, Colonel Maureen A. Kohn, military judge, presiding.

TO THE HONORABLE 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 7-day extension of time until 19 January 2024 to file a Reply Brief on Behalf of Appellant. The Brief on Behalf of Appellant is currently due on 12 January 2024. Pursuant to Rule 24.1(b), the undersigned counsel asserts:

1. The undersigned civilian defense counsel has 4 deadlines between the date of this motion and 24 January 2024. Specifically, the undersigned must file an amended complaint in Federal Court for *Ortega v. Department of Homeland Security*, due 12 January 2024; a motion to compel for *Beach v. Department of*



*Justice*, due 12 January 2024; a response to a motion to dismiss and motion for summary judgment in *Bierly v. Department of Defense* in Federal Court, due 15 January 2024; and mediation in *Davitt v. Department of the Army* for the MSPB, due 24 January 2024.

2. Consistent with civilian counsel's state bar rules, the undersigned request additional time to ensure that all due diligence has been done to adequately review, investigate, research, and draft a reply brief 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 TO FILE  
REPLY

GRANTED: \_\_\_\_\_

DENIED: \_\_\_\_\_

DATE: 11 January 2024

[REDACTED]

John R. McGuire III  
Civilian Appellate Counsel

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



### **Certificate of Filing and Service**

I certify that a copy of the foregoing was electronically submitted to Army  
Court and Government Appellate Division on 9 January 2024



Matthew S. Fields  
Captain, Judge Advocate  
Appellate Defense Counsel  
Defense Appellate Division