

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES,
Appellee

MOTION FOR EXTENSION (3)

v.

Docket No. ARMY 20230029

Sergeant (E-5)
MICHAEL V. SMITH,
United States Army,
Appellant

Tried at Fort Huachuca, Arizona, on 30 March, 25 May 2022, and 17-20 January 2023, before a general court-martial appointed by the Commander, Headquarters, U.S. Army Intelligence Center of Excellence & Fort Huachuca, Lieutenant Colonel Michael E. Korte, 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 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 5 December 2023, to file a Brief on Behalf of Appellant. The Brief on Behalf of Appellant is currently due on 5 November 2023. Pursuant to Rule 24.1(b) and Rule 31, the first undersigned counsel asserts:

1. On 20 January 2023, a military judge sitting as a general court-martial, found Sergeant Smith (Appellant) guilty contrary to his pleas of one specification of sexual assault, one specification of abusive sexual contact, one specification of extramarital sexual conduct, and one specification of assault consummated by battery

in violation of Articles 120, 128, and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 920, 928, and 934 [UCMJ]. The military judge sentenced appellant to forty months and fifteen days of confinement, reduction to E-1, and dishonorable discharge. He was found not guilty of one specification of sexual assault in violation of Article 120. Two specifications of sexual assault in violation of Article 120 were withdrawn and dismissed before arraignment. On 31 March 2023, the convening authority took no action. This court referred appellant's case on 9 May 2023.

2. The trial transcript contains 685 pages and the record of trial with attachments consists of 1,887 pages, excluding the sealed materials.
3. First undersigned counsel currently has twenty cases pending before this court and one oral argument, one brief on a granted case, and five other supplemental briefs pending before the Court of Appeals for the Armed Forces (CAAF).
4. Consistent with Army Regulation 27-26, Rules of Professional Conduct for Lawyers, undersigned counsel request additional time to ensure that counsel have diligently investigated, thoroughly researched, and appropriately briefed any assignments of error in this case to fulfill counsels' ethical obligation to represent the appellant's interest.
5. Appellant is currently confined at JRCF and concurs with this request.

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

PANEL NO. 3

MOTION FOR EXTENSION (3)

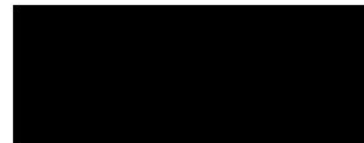
GRANTED: 

DENIED: _____

DATE: 01 November 2023



TUMENTUGS D. ARMSTRONG
Captain, Judge Advocate
Appellate Defense Counsel
Defense Appellate Division



MITCHELL HERNIAK
MAJ, JA
Branch Chief
Defense Appellate Division

CERTIFICATE OF SERVICE

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



TUMENTUGS D. ARMSTRONG
Captain, Judge Advocate
Appellate Defense Counsel
Defense Appellate Division