

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

MOTION FOR EXTENSION (4)

v.

Docket No. ARMY 20220152

Sergeant (E-5)

JORGE L. ESPINAL,

United States Army

Appellant

Tried at Vilseck, Germany, on 22 February and 30 March 2022, before a general court-martial appointed by the Commander, 7th Army Training Command, Lieutenant Colonel Thomas P. Hynes, 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 for a 30 day extension of time until 15 December 2023 to file a Brief on Behalf of Appellant.

Consistent with Army Regulation 27-26, Rules of Professional Conduct for Lawyers, the undersigned counsel request additional time to ensure that counsel has diligently investigated, thoroughly researched, and appropriately briefed the assignments of error in this case to fulfill counsels' ethical obligation to represent the appellant's interest.

This is a contested case. The trial transcript contains 277 pages and the electronic record of trial (eROT) consists of 1259 pages, plus an additional 250 pages of appellate exhibits not included in the eROT. The

sentence was adjudged on 30 March 2022, and it included a bad-conduct discharge and confinement for 120 days.

The Brief on Behalf of Appellant is currently due on 15 November 2023. Appellant requests a 30-day extension of time to 15 December 2023 to file appellant's brief.

First undersigned counsel is also one of the lead attorneys in *United States v. Hasan*, a capital case, in which he is preparing a motion for reconsideration before the Court of Appeal's for the Armed Forces (CAAF). In the past thirty days, first undersigned counsel was on temporary duty (TDY) for CAAF's Outreach Argument in *United States v. Strong* from 10-12 October 2023 and this court's Outreach Argument in the case of *United States v. Phillips* from 15-16 October 2023. First undersigned counsel also assisted in the Brigadier General Wayne E. Alley Military Law Moot Court Competition on 20-21 October 2023. First undersigned counsel was on sick leave a medical procedure on 24 October 2023. First undersigned counsel filed a brief before this court in *United States v. Filmore* on 31 October 2023. First undersigned counsel also attended several meetings in October as a member of the Board for the Council of Appellate Lawyers in preparation for the Appellate Judges Education Institute (AJEI), taking place between 2-5 November 2023, and attended that conference. First undersigned counsel was also TDY in Syracuse, New York from 6-8 November 2023 for this

court's Outreach Argument in *United States v. Herman*. First undersigned counsel is also currently detailed to five other cases. Moreover, first undersigned counsel has supervisory responsibilities on more than twenty other cases in the Defense Appellate Division.

Since being assigned to this case, in addition to reviewing many filings and attending moots in preparation for oral arguments, first undersigned counsel assisted in organizing the Joint Appellate Advocacy Training on 24-25 August 2023, attended that training and taught one session, and taught four courses at the Defense Appellate Division's New Counsel Training from 31 July to 4 August 2023. Additionally, first undersigned counsel filed the appellant's brief in *United States v. Coffee*. Moreover, first undersigned counsel has been engaged in mentoring new counsel, reviewing records of trial and briefs in cases before this court and before CAAF, preparing counsel for oral argument in *United States v. Watkins* and *United States v. Jarlego* before this court, and assisting in preparing, and is an attorney of record, for a petition for certiorari to the United States Supreme Court in *United States v. Martinez, et. al.* Finally, first undersigned counsel presented at the Trial Defense Service's Capital and Complex Training in Charlottesville, Virginia on 11 September 2023.

First undersigned counsel has read the record of trial and identified potential assignments of error, but needs additional time to conduct legal

research, prepare appellant's brief, and have that brief undergo supervisory review.

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

PANEL NO. 2

MOTION FOR
EXTENSION (4)

GRANTED:  FINAL

DENIED: _____

DATE: 14 November 2023



Senior Appellate Counsel
Defense Appellate Division



Brýan A. Osterhage
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 the Army Court and Government Appellate Division on 9 November 2023.



BRYAN A. OSTERHAGE
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