

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

MOTION FOR EXTENSION (4)

v.

Docket No. ARMY 20220088

Staff Sergeant (E-6)

GARY L. GOINS

United States Army

Appellant

Tried at Fort Liberty, North Carolina on 28 May 2021, 21 October 2021, 1 December 2021, 31 January 2022 and 1-2 March 2022 before a general court-martial appointed by Commander, Fort Liberty, Colonel Bret Batdorff, 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 requests a 30-day extension of time until 24 April 2024 to file a Brief on Behalf of Appellant. The Brief on Behalf of Appellant is currently due on 25 March 2024. Pursuant to Rule 24.1(b), the undersigned counsel assert:

1. Without the protection of a plea agreement, on 1-2 March 2022, a military judge sitting as a general court-martial convicted Appellant, Staff Sergeant Gary L. Goins, pursuant to his pleas, one specification of sexual assault of a child who had attained the age of twelve years, three specifications of sexual abuse of a child involving sexual contact, and one specification of sexual abuse of a child

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involving indecent communications all in violation of Article 120b, UCMJ; one specification of violating a general order in violation of Article 92, UCMJ, and one specification of obstruction of justice in violation of Article 131b, UCMJ. 10 U.S.C. §§ 120b, 92, and 131b. (R. at 51; Statement of Trial Results).¹

Appellant was sentenced on 2 March 2022 to reduction to the grade of E-1, a total of forty-two months confinement, and a dishonorable discharge. (Statement of Trial Results; R. at 421). The Convening Authority waived automatic forfeitures for the benefit of Appellant's dependents on 19 May 2022. The entry of Judgement was signed on 26 May 2022.

2. Appellant's record of trial was received in the Defense Appellate Division on 28 August 2023 and is 2,691 pages long. The current due date is 25 March 2024. Appellant concurs with this request for delay and is still confined.

3. The primary reason for this request is twofold. First, to date, despite multiple communications with the Fort Liberty Office of the Staff Judge Advocate, Appellant has not been provided his copy of the record of trial in accordance with Rules for Courts-Martial 1112(e)(1), but Appellant's counsel received confirmation on 13 March (Wednesday) including a pre-printed tracking label that

¹ The Government dismissed two specifications of obstruction of justice in violation of Article 131b after arraignment but prior to findings. (Statement of Trial Results).

the Record of Trial was to be mailed the week of this filing.² As of the filing of this extension, the Joint Regional Confinement Facility has confirmed that it has not been received. Second, the undersigned is scheduled, once construction in the courtroom is complete, to view the sealed materials that this Court already granted access to, but due to leave and construction, has not been viewed previously.

4. The first undersigned counsel graduated Command and General Staff College on 17 August 2023 with orders to report to Defense Appellate Division on or before 8 September 2023. The undersigned was assigned this case before completing inprocessing. Since arriving in September, the undersigned counsel has filed the following: *United States v. Hunter*, 20230313 (five assignments of error); *United States v. Myers*, 20230100 (two assignments of error); *United States v. Charland*, 20220512 (one assignment of error), *United States v. Wilson*, 23-0225/AR (Court of Appeals for the Armed Forces (CAAF) Brief and Reply Brief, alleging 1 error with five parts); *United States v. Green*, 20210656 (alleging four assignments of error); and *United States v. Mitchell*, 20230199 (alleging four

² The first undersigned counsel has contacted the Fort Liberty Chief of Justice and post-trial team on 7 December 2023, 25 January 2024, 16 February 2024, and 8 March 2024 to request the record of trial be forwarded to Appellant. On 25 January, the Chief of Justice indicated it would be mailed that week. On Saturday, 17 February 2024, the Chief of Justice indicated that the record of trial had yet to be mailed, but it will be no later than 23 February 2024. After the 8 March request, the undersigned received confirmation that it would be mailed the week of this filing. These communications will be included in the post-trial delay assignment of error when submitted.

assignments of error). The undersigned also argued *United States v. Wilson* at CAAF.

5. Additionally, since the last extension, first undersigned counsel has submitted, along with co-counsel, *United States v. Dickerson*, 20220118 (alleging three assignments of error); *United States v. Ford*, 20230263 (alleging three assignments of error) and an associated judicial notice motion; *United States v. Martin*, 20230234 (one assignment of error); *United States v. Burch*, 20230576 (sub-jurisdictional) (four assignments of error, one motion, and one response motion); *United States v. Ironhawk*, Misc 20240057 (extraordinary writ response); *United States v. Padgett*, 20220169 (three assignments of error, one motion, and one response); *United States v. Charland*, 20220512 (motion for reconsideration); *United States v. Hulihan (III)*, 20220552 (one assignment of error); and *United States v. Brassfield*, 20230516 (sub-jurisdictional cases with two assignments of error), *United States v. Flannagan*, 2023028 (five assignments of error), and *United States v. Charland* (CAAF). Likewise, after reviewing the records, there have been three withdrawals during this time (*Grant*, 20230158; *Giaquinto*, 20230532; and *Redich*, 20230308) and motions under Mil. R. Evid 412 and 513 (*McTear*, 20220531 and this case).

6. Additionally, by the current due date, first undersigned counsel anticipates filing *United States v. McTear*, 20220531 (four assignments of error). Appellant's

only other extensions are in *United States v. Park* (final) and *United States v. Brown*, 20230168.

The undersigned is the primary reviewing counsel on thirty-two cases (including seven contests) at the Army Court and lead counsel on seven cases including three contested cases and one “naked” plea. The undersigned is also the Branch Chief responsible for one pending Article 62 appeal (*United States v. Davis*, Misc 20240078).³ Every case the undersigned is lead counsel has at least one assignment of error, but in this particular case, there will be at least seven assignments of error.

7. Consistent with Army Reg. 27-26, Rules of Professional Conduct for Lawyers, undersigned request additional time to ensure that 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.

³ In the previous extension request, there was a second Art. 62, however, the government notified the undersigned on 4 March that it would not accept the Art. 62.

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

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GRANTED:

DENIED:

DATE: 18 MAR 2024



Robert D. Luyties
Major, Judge Advocate
Branch Chief
Defense Appellate Division

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was electronically submitted to the Army Court of Criminal Appeals, the Government Appellate Division, and the Defense Appellate Division on 15 March 2024.



ROBERT D. LUYTIES
Major, Judge Advocate
Branch Chief,
Defense Appellate Division