

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

UNITED STATES

Appellee

**MOTION FOR EXTENSION (3)  
OUT OF TIME**

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 25 March 2024 to file a Brief on Behalf of Appellant. The Brief on Behalf of Appellant is currently due on 24 February 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

PANEL 2

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).<sup>1</sup>

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 24 February 2024. Appellant concurs with this request for delay and is still confined. 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).<sup>2</sup>

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

<sup>2</sup> The first undersigned counsel has contacted the Fort Liberty Chief of Justice and post-trial team on 7 December 2023, 25 January 2024, and 16 February 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

3. 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); *United States v. Mitchell*, 20230199 (alleging four assignments of error); *United States v. Burch*, 20230576 (alleging four assignments of error); *United States v. Dickerson*, 20220118 (alleging two assignments of error); *United States v. Ford*, 20230263 (alleging three assignments of error); *United States v. Johnson*, 20230240 (alleging one assignment of error); and *United States v. Martin*, 20230234 (alleging one assignment of error). The undersigned also argued *United States v. Wilson*, in between the last extension and this request.

Additionally, by the current due date, first undersigned counsel anticipates filing the following *United States v. Padgett*, 20220169 (two assignments of error)

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no later than 23 February 2024. These communications will be included during a post-trial delay assignment of error when submitted.

and *United States v. Brassfield*, 20230516 (one assignment of error). The undersigned is the primary reviewing counsel on thirty-seven cases (including seven contests) at the Army Court and lead counsel on seven cases including three contested cases.

The undersigned is also the Branch Chief responsible for one extraordinary writ (currently due 4 March) and two new/pending Article 62 appeals that were notified under RCM 908 with the Record of Trial delivered to the undersigned and this Court on 20 February 2024. Every case the undersigned is lead counsel has at least one assignment of error, but in this particular case, there will be at least four assignments of error.

4. Counsel has good cause for filing this request out of time. Counsel did not anticipate the need for an extension until 21 February when the Fort Liberty Chief of Justice's Saturday email was received. That email confirmed that Appellant had still not been sent his copy of the record of trial which was previously supposed to be sent the week of 25 January 2024. After that confirmation, counsel discussed whether Appellant was able to effectively participate with his *Grostefon* matters and it was indicated that additional time to review the record would be needed. Likewise, counsel was on approved leave from 18-20 February which was the deadline to file (although a Federal Holiday at

which time the Court is closed). This is the first duty day after the holiday where counsel was in the office and had access to the email communication.

5. 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.

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

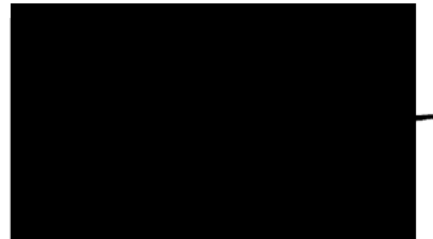
PANEL NO. 2

MOTION FOR  
EXTENSION (3) OUT OF TIME

GRANTED:

DENIED:

DATE: 22 February 2024



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

MOTION FOR  
LEAVE TO FILE OUT OF TIME

GRANTED:

DENIED:

DATE: 22 February 2024

## **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 21 February 2024.



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