

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

MOTION FOR EXTENSION (3)

v.

Docket No. ARMY 20220531

Sergeant (E-5)

EDWARD T. McTEAR,

United States Army,

Appellant

Tried at Fort Stewart, Georgia, on 15 March 2022, 22 June 2022, 19-20 October 2022, before a general court-martial appointed by the Commander, Headquarters and Fort Stewart, Lieutenant Colonels Albert Courie and Trevor I. Barna, military judges, 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 moves this court to grant appellant's Motion for Extension of Time. The undersigned appellate defense counsel requests a 15-day extension until 2 April 2024 to file a Brief on Behalf of Appellant. The Brief is currently due on ¹⁷~~18~~ March 2024. Pursuant to Rule 24.1(b), first undersigned counsel asserts:

1. On 20 October 2022, a military judge sitting as a general court-martial convicted appellant, SGT Edward T. McTear, contrary with his pleas, of three specifications of sexual assault, in violation of Article 120, Uniform Code of

Military Justice (UCMJ).¹ (R. at 456; Statement of Trial Results). That same day, the military judge sentenced appellant to reduction to the grade of E-1, forfeiture of all pay and allowances, twenty-four months confinement and a dishonorable discharge.² (R. at 509 Statement of Trial Results). On 16 November 2022, the convening authority approved the sentence. (Convening Authority Action). On 1 February 2023, the convening authority superseded the previous action dated 16 November 2023 and disapproved the adjudged sentence pertaining to total forfeiture of all pay and allowances. (Convening Authority Action). On 2 February 2023, the military judge entered Judgement (Judgement of the Court). This court docketed appellant's case on 19 September 2023. (Referral and Designation of Counsel).

2. Appellant's record of trial was received in the Defense Appellate Division on 19 September 2023, and is 509 pages long. The current due date is 18 March 2024. Appellant is currently in confinement and concurs with this request for delay.

¹ The military judge found appellant not guilty of The Specification of Charge II, Attempted Sexual Assault, in violation of Article 80, Uniform Code of Military Justice.

² The military judge sentence appellant as follows:

Charge I and its specifications	Twenty-four Months
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3. Reasons for the Request- Detailed appellate defense counsel requests additional time to review unseen sealed materials. On 26 February 2024, a motion to examine sealed materials was filed with this court and was approved on 27 February 2024. Undersigned counsel was on OCONUS leave from 26 February 2024 to 9 March 2024. On 11 March 2024, undersigned counsel requested to view the sealed materials and attached the court order to the Assistant Deputy Clerk of Court. On 12 March 2024, the Assistant Deputy Clerk of Court stated they were not doing record reviews due to contractors and will follow up when appointments are allowed. On 13 March 2024, the Assistant Deputy Clerk of Court stated no record reviews will be held this week, and they are keeping a list of requests to reach back out as soon as they can. This appellant brief has at least two assignments of errors. An additional assignment of error has been identified and is dependent on the sealed material.

Additionally, by the current due date, first undersigned counsel has filed *United States v. Cortez* (request for withdrawal), *United States v. Benedict* (request for withdrawal), *United States v. Charland* (appellant brief with one assignment of error), *United States v. Zuniga* (request for withdrawal), and *United States v. Mickens* (request for withdrawal), *United States v. Johnson* (appellant brief with one assignment of error), *United States v. Grant* (request for withdrawal), *United States v. Brassfield* (appellant brief with two assignments of errors), and *United*

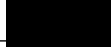
States v. Charland (motion for reconsideration). Undersigned counsel is assigned to eleven additional cases before this court including two contested courts-martial at the time of filing this request.

4. Consistent with Army Reg. 27-26, Rules of Professional Conduct for Lawyers, the 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 requests that this court grant the motion.

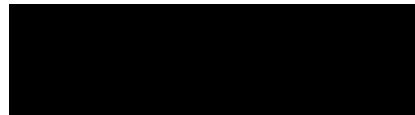
PANEL NO. 2

MOTION FOR
EXTENSION (3)

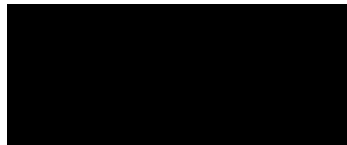
GRANTED:  _____

DENIED: _____

DATE: 18 MAR 2024



Amber L. Bunch
Captain, Judge Advocate
Appellate Defense Counsel
Defense Appellate Division



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 and Government Appellate Division on 13 March 2024.



Amber L. Bunch
Captain, Judge Advocate
Appellate Defense Counsel
Defense Appellate Division