

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES

Appellee

MOTION FOR EXTENSION (2)

v.

Docket No. ARMY 20220429

Private First Class

DAVY J. HALCHIMAI,

United States Army,

Appellant

Tried at Fort Bliss, Texas, on 14 February, 11 July, 5 August, and 16-19 August 2023, before a general court-martial appointed by the Commander, Headquarters, 1st Armored Division, Colonel Robert Shuck and Colonel Joseph R. Distaso, 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 move for a 30 day extension of time until 4 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 996 pages and the electronic record of trial (eROT) consists of 2213 pages. The sentence

was adjudged on 19 August 2022, and includes a dishonorable discharge and confinement for five years.

The Brief on Behalf of Appellant is currently due on 4 November 2023. Appellant requests a 30-day extension of time to 4 December 2023 to file appellant's brief.

Good cause exists for this extension. First undersigned counsel was on temporary duty (TDY) at Joint Base Lewis-McChord for the Court of Appeals for the Armed Forces (CAAF) Outreach Argument in *United States v. Strong* from October 10 through October 12, 2023, and this court's Outreach Argument at Campbell Law School in Raleigh, North Carolina, for the case of *United States v. Phillips* from October 15 until October 16, 2023. First undersigned counsel attended several meetings in the months of September and October as a member of the board for the Council of Appellate Lawyers in preparation for the Appellate Judges Education Institute, taking place between November 2-5, 2023. First undersigned counsel will be attending that conference. On 6-8 November 2023, first undersigned counsel will be TDY in Syracuse, New York for this court's Outreach Argument in *United States v. Herman*. Additionally, first undersigned counsel is preparing a motion to reconsider CAAF's decision affirming the death sentence in *United States v. Hasan*. First undersigned counsel is currently detailed

as lead counsel in five other cases and has supervisory responsibilities on more than twenty other cases in the division.

Undersigned counsel respectfully requests additional time to review the record, research issues, confer with appellant, and accomplish supervisory review. Appellant does not object to this extension.

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

PANEL NO. 3

MOTION FOR EXTENSION (2)

GRANTED: _____

DENIED: _____

DATE: 03 November 2023

Jonathan F. Potter
Senior Appellate Counsel
Defense Appellate Division

MITCHELL D. HERNIAK
Major, JA
Branch Chief
Defense Appellate Division

CERTIFICATE OF FILING AND SERVICE

I certify that a copy of the foregoing was electronically submitted to Army
Court and Government Appellate Division on November 1, 2023.



MELINDA J. JOHNSON
Paralegal Specialist
Defense Appellate Division