IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES,
Appellee

v.

Private First Class (E-3)
DONIVAN C. RIPPY,
United States Army,
Appellant

MOTION FOR LEAVE TO FILE A RESPONSE TO APPELLANT'S REPLY BRIEF

Docket No. ARMY 20230633

Tried at Fort Johnson, Louisiana, on 7 December 2023, before a general court-martial convened by Commander, Joint Readiness Training Center and Fort Johnson, Lieutenant Colonel Maureen A. Kohn, Military Judge, presiding.

TO THE HONORABLE, THE JUDGES OF THE
UNITED STATES ARMY COURT OF CRIMINAL APPEALS

COMES NOW, the undersigned appellate government counsel pursuant to Rule 23(d) of this court's Rules of Appellate Procedure to request this court's permission to file a spons to appellant's reply brief. If this court grants appellant's motion to file a reply brief out of time, the government requests the opportunity to respond to novel issues raised in appellant's reply brief that were not raised in their initial filing with this court.

Appellant raised additional facts and made argument regarding the application of the President's Executive Order. (Appellant's Reply Br. 2–3). Specifically, regarding the interplay of Article 30(a) proceedings and the application of the Executive Order regarding those prior proceedings. Because this

argument, and the application of the Ex Post Facto clause of the Constitution was not raised by appellant in his initial brief, the government did not have the opportunity to respond to that argument. Although an answer to a reply brief is not contemplated under this court's rules of practice and procedure, the government maintains that one may be warranted in this case.[1]

Conclusion

WHEREFORE, the government respectfully requests this honorable court grant the government's motion only if it grants appellant's request to file out of time.

[redacted]

MOTION FOR LEAVE TO
FILE ARESPONSE TO
APPELLANT'S REPLY BRIEF

PANEL No. 4

Granted _____

Denied _____

Date: _____

ANTHONY J. SCARPATI
CPT, JA
Appellate Attorney
Government Appellate Division

[1] However, considering appellant's brief was filed out of time, and has not yet been accepted by this court, this issue is not yet ripe. Therefore, this request to respond is wholly dependent upon this court's acceptance of appellant's filing.

CERTIFICATE OF SERVICE, U.S. v. RIPPY (20230633)

I certify that a copy of the foregoing was sent via electronic submission to the Defense Appellate Division at [redacted] [redacted] on the 19th day of February, 2025.

[redacted]
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[redacted]