

No. _____

IN THE
Supreme Court of the United States

NORBERT A. KING, II,
LIEUTENANT COLONEL,
UNITED STATES AIR FORCE,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

Application for Extension of Time to File a Petition for a Writ of
Certiorari to the United States Court of Appeals for the Armed Forces

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To the Honorable John G. Roberts, Chief Justice of the United States Supreme
Court:

Pursuant to Supreme Court Rules 13.5, 22, and 30.2, the Petitioner, Norbert A.
King II, respectfully requests a 60-day extension of time, to and including July 23,
2023, to file a Petition for a Writ of Certiorari. In support of this application,
Petitioner states the following:

1. On August 1, 2018, Petitioner was convicted, contrary to his pleas, of sexual
assault, and committing an act of sexual penetration on a 17-year-old blood relative,
an offense not capital, in violation of Title 2C, Chapter 14, Section 2, Subsection

(c)(3)(a) of the New Jersey Code of Criminal Justice, assimilated into Federal Law by 18 U.S.C. §13, in violation of Articles 120 and 134, Uniform Code of Military Justice (UCMJ). The officer panel sentenced Petitioner to confinement for three years and a dismissal. The convening authority approved the adjudged sentence and, except for the dismissal, ordered it executed.

2. On August 16, 2021, the United States Air Force Court of Criminal Appeals set aside and dismissed the finding of guilt regarding the Article 134, UCMJ offense, and affirmed the finding of guilt regarding the Article 120, UCMJ offense, and the sentence. *United States v. King*, 2021 CCA Lexis 415, 2021 WL 3619892 (A.F. Ct. Crim. App. Aug. 16, 2021) (unpub. op.).

3. On February 23, 2023, the United States Court of Appeals for the Armed Forces upheld the United States Air Force Court of Appeals' decision in a published opinion. *United States v. King*, __ M.J. __, 2023 CAAF Lexis 112, 2023 WL 2231268 (C.A.A.F. 2023). The time for petitioning this Court for a writ of certiorari expires on May 24, 2023. This application is being filed more than 10 days before that date.

4. Attached to this application are copies of the opinions of the United States Air Force Court of Criminal Appeals (Attachment A) and the United States Court of Appeals for the Armed Forces (Attachment B).

5. This Honorable Court has jurisdiction under 28 U.S.C. § 1259(3).

6. This case presents opportunities for this Court to interpret a Presidential rule regarding the definition of "on the record," and to address the Government's expansive ability to supplement the record of trial mid-appeal, while at the same

time, a Servicemember's ability to supplement the record of trial during appeal is severely restricted.

7. Petitioner bases his request for an extension of time on the following:

a. Petitioner's lead attorney, a member of this Honorable Court's bar, is self-employed with the Law Office of Tami L. Mitchell. Ms. Mitchell currently represents five Servicemembers in appealing their courts-martial convictions. She also represents four former Servicemembers in federal district court (California, Arizona, and Missouri) seeking writs of habeas corpus or declaratory judgment; two former Marines before the Navy Discharge Review Board; an Air Force officer before the Air Force Board for Correction of Military Records; and five Army officers with pending administrative matters. Briefs and responses to court/board orders are due in April, May, and June.

b. Ms. Mitchell serves as an expert consultant/witness for a Navy officer facing a Board of Inquiry (BOI) from May 22-24, 2023. This officer was wrongly convicted at a court-martial in 2020 of sexually abusing his daughter, and sentenced to 16 years of confinement and a dismissal. Ms. Mitchell represented this officer in a successful appeal before the Navy-Marine Corps Court of Criminal Appeals in 2021, and successfully defended him against the Government's attempt to retry him in 2022; he was fully acquitted. The BOI relates to the same matters as his courts-martial. Ms. Mitchell will be in Hawaii for this BOI May 18-24, 2023, followed by a vacation May 25-30, 2023.

c. Ms. Mitchell also represents a college student in a Title IX matter being investigated by a Wisconsin university. The Title IX investigation began in December of 2022, and has yet to resolve.

d. Finally, Ms. Mitchell is the plaintiff in a personal injury lawsuit. She was rear-ended in a car accident on October 1, 2020, and the case has not settled.

In balancing Ms. Mitchell's case load and personal matters, Petitioner needs additional time to complete the drafting of his Petition for a Writ of Certiorari, and to have it reviewed and submitted in the appropriate format.

For the foregoing reasons, Petitioner respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to and including July 23, 2023.

Respectfully submitted,



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