

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

U N I T E D S T A T E S,
Appellee

MOTION FOR LEAVE TO FILE
REVISED BRIEF EXCEEDING FIFTY
PAGES

v.

First Lieutenant (O-2)
CLINT A. LORANCE,
United States Army,
Appellant

Docket No. ARMY 20130679

Tried at Fort Bragg, North
Carolina, on 25 April 2013,
22 July 2013, and 30 July
2013 through 1 August 2013,
before a general court-
martial convened by
Commander, Headquarters, 82nd
Airborne Division, Colonel
Kirsten Brunson, Military
Judge, presiding.

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

COMES NOW the United States, by and through undersigned
counsel, pursuant to Army Court of Criminal Appeals Internal
Rules of Practice and Procedure Rules [hereinafter A.C.C.A. R.]
15.1(g) and 23, and moves this court for leave to file a revised
brief that is approximately sixty pages long, exclusive of the
table of authorities. On 9 December 2015, appellant filed his
primary brief, asserting, among other errors, that his trial
defense counsel were ineffective. On 30 June 2016, the United
States filed its brief in response, arguing as to the
ineffective-assistance-of-counsel claim that appellant had
failed to provide any evidence of the majority of his factual
assertions. The United States obtained leave from this court to

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file a brief of approximately fifty-five pages and did so. On 5 August 2016, appellant filed a reply brief and, on the same day, moved this court to attach to the record a twelve page affidavit related to his ineffective-assistance claims. (Def. App. Ex. 0). This court granted that motion. Thus, appellant added to the record after all briefing was ostensibly completed. In response, in successive motions, the United States moved this court to compel appellant's trial defense counsel to provide affidavits in response and to attach those affidavits to the record. (Gov. App. Exs. 2 and 3). This court granted both motions. Defense counsel's affidavits are twenty-eight and thirty-six pages each. Thus, after the United States filed its brief, the record expanded by seventy-six pages, all of which is relevant to appellant's ineffective-assistance claim.

In this case appellant assigns six errors. In his first assignment of error, appellant raises complicated issues of constitutional and international law by incorporating the approximately fifty pages of briefing he submitted in relation to his separately filed petition for a new trial. (Appellant's Br. 12). In his second assignment of error, appellant argues five different and sometimes unrelated reasons the post-trial processing in this case was in error. (Appellant's Br. 14). In his third assignment of error, appellant challenges approximately two dozen actions of his defense counsel as

ineffective assistance of counsel. (Appellant's Br. 28). In his fourth assignment of error, appellant claims the military judge failed to give four discrete instructions. (Appellant's Br. 21). In his fifth and sixth assignments of error, appellant challenges both the legal and the factual sufficiency of four of the findings, requiring the United States to show evidence beyond a reasonable doubt of sixteen separate elements.

(Appellant's Br. 45, 48). The record spans eleven volumes and includes 986 pages of transcript. Not counting appellant's submissions along with his petition for a new trial, appellant's primary brief is fifty pages and his reply brief is forty-one pages. Undersigned counsel has prepared a new brief in response, which is approximately sixty pages long, excluding the table of authorities and appendix. That brief is filed contemporaneously with this motion.

Briefs filed in this court must generally not exceed fifty pages, excluding tables and appendices. A.C.C.A. R. 15.1(g). However, a party may demonstrate good cause for exceeding the limit. *Id.*

There is good cause for granting leave to file a revised sixty page brief because of the new evidence attached to the record, the number and complexity of the issues, and the length of the record of trial. Undersigned counsel has sought to consolidate assignments of error and be efficient wherever


possible. The revised brief is just over four pages longer than the original brief, to account for the new evidence submitted by both parties after briefing was completed. The revised brief also corrects typographical errors noted by appellant.

(Appellant's Reply Br. 40 n.8). Accordingly, this court should grant the United States leave to file a sixty page brief.

Conclusion

WHEREFORE, the United States respectfully requests this Honorable Court grant it leave to file a revised brief of approximately sixty pages.

MOTION FOR LEAVE TO FILE REVISED
BRIEF IN EXCESS OF FIFTY PAGES



SAMUEL E. LANDES
CPT, JA
Branch Chief, Government
Appellate Division

PANEL: 3


Granted: _____

Denied: _____

Date: _____

CERTIFICATE OF FILING AND SERVICE

I hereby certify that the original of the foregoing was delivered by hand to this Honorable Court and a copy was served upon Appellate Defense Counsel by hand and on civilian defense counsel by email on this 24 day of October 2016.


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DEFENSE APPELLATE
DIVISION/USALSA

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