

No. _____

IN THE
Supreme Court of the United States

JAMES W. RICHARDS IV,
Petitioner,

v.

DEBORAH LEE JAMES,
SECRETARY OF THE AIR FORCE,

BRIAN S. GREENROAD,
COLONEL, COMMANDER,
AIR FORCE SECURITY FORCES CENTER,

D.L. HINTON,
COLONEL, COMMANDANT,
UNITED STATES DISCIPLINARY BARRACKS,
Respondents.

**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, Jr., Chief Justice of the United States:

Pursuant to Supreme Court Rules 13.5, 22, and 30.2, the Petitioner, Lieutenant Colonel James W. Richards, respectfully requests a 40-day extension of time, to and including July 9, 2019, to file a Petition for a Writ of Certiorari. In support of this application, Petitioner states the following:

1. On February 21, 2013, a general court-martial sentenced Petitioner to a dismissal, confinement for 17 years, and forfeiture of all pay and allowances. The United States Air Force Court of Criminal Appeals (AFCCA) affirmed the findings and sentence of Petitioner's court-martial on May 2, 2016. On June 4, 2017, while Petitioner's appeal was pending review before the United States Court of Appeals for the Armed Forces (CAAF), Petitioner filed a Petition for Extraordinary Relief in the Nature of a Writ of Mandamus with the AFCCA. On July 13, 2017, the CAAF rendered a decision in Petitioner's case. On August 27, 2018, following this Court's denial of certiorari but prior to the AFCCA's action on the mandamus petition, the Secretary of the Air Force ordered Petitioner's dismissal executed. On October 19, 2018, the AFCCA issued a decision on the mandamus petition. In that decision, the AFCCA determined that jurisdiction existed to hear the writ, but denied the writ on its merits. On December 6, 2018, Petitioner appealed the AFCCA decision to the CAAF. On January 31, 2019, the CAAF ruled that it did not have jurisdiction to hear the writ-appeal. On February 8, 2019, Petitioner timely moved for reconsideration, which the CAAF denied on March 1, 2019.

2. Attached to this application are copies of the CAAF's initial decision, the AFCCA's decision on the writ-appeal, the CAAF's ruling on the writ-appeal, and the CAAF's denial of reconsideration.

3. Because the CAAF granted review of his case, Petitioner respectfully submits that this Honorable Court has jurisdiction under 28 U.S.C. § 1259(3).

4. This case presents an excellent vehicle to examine the jurisdictional scope of Article I military courts as provided for by Congress in Articles 66 and 67, Uniform Code of Military Justice (UCMJ), 10 U.S.C. §§ 866-67. Specifically, this case asks whether the Executive Branch can divest jurisdiction from an Article I military court of appeals over an extraordinary writ brought under the All Writs Act, 28 U.S.C. § 1651(a), after jurisdiction has vested under the UCMJ. Correspondingly, this Court can determine whether the CAAF has gone too far in limiting its jurisdiction and the jurisdiction of military appeals courts to hear appeals. This latter question falls on the other end of the spectrum from *Clinton v. Goldsmith*, 526 U.S. 529, 119 S. Ct. 1538, 143 L. Ed. 2d 720 (1999), where this Court held the CAAF went too far in asserting jurisdiction over cases. Given the CAAF's recent trend in limiting its jurisdiction, military inmates have been forced to seek relief in the Federal court system and will continue to do so in increasing numbers. Consequently, the Federal court system may soon find itself mired in military-specific issues and become the final arbiter over countless military claims. This is not a fate envisioned by Congress, which justifiably tasked the CAAF with the responsibility of maintaining uniformity in military decisions.

5. Petitioner bases his request for an extension of time on his retention of new counsel. The Air Force Appellate Defense Division recently assigned undersigned counsel to represent Petitioner following previously assigned counsel's separation from active duty military service. The issues presented in this case are factually and procedurally complex, and undersigned counsel was not involved in any of the

previous trial or appellate proceedings. Undersigned counsel is currently representing seventeen clients before the AFCCA and five clients before the CAAF, and supervises the filings and caseloads of eight attorneys in the Appellate Defense Division. Although undersigned counsel may be able to prioritize this case to a degree, his other commitments prevent him from sufficiently assisting Petitioner in this matter prior to May 30, 2019 – the due date for the Petition for a Writ of Certiorari.

WHEREFORE, Petitioner respectfully requests 40 additional days for undersigned counsel to familiarize himself with the relevant materials so that he can assist Petitioner in preparing an appropriate petition for consideration by this Honorable Court.

Respectfully Submitted,



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Filed on: May 20, 2019

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