

# UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before  
BROOKHART, WALKER, and FLEMING  
Appellate Military Judges

**UNITED STATES,  
Petitioner**

**v.**

**Colonel CHARLES L. PRITCHARD, Military Judge,  
United States Army, Respondent**

**and**

**Lieutenant Colonel ANDREW J. DIAL,  
United States Army,  
Real Party in Interest**

ARMY MISC 20220001

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ORDER  
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**WHEREAS:**

The Real Party in Interest stands accused of various offenses before a general court martial set to convene in the Fifth Judicial Circuit, Kaiserslautern, Germany on 10 January 2022. Trial Defense Counsel in this case filed a motion with the trial court seeking an instruction to the members that any finding of guilty must be by unanimous vote. On 3 January 2022, the military judge, after considering the briefs of trial and defense counsel, issued a ruling granting the defense motion, stating “The Court will instruct the panel that any finding of guilty must be by unanimous vote, and the Court will ask the panel president before announcement of findings if each guilty finding was the result of a unanimous vote.”

On 3 January 2022, the government filed a “Request for a Stay of Proceedings” with this court, seeking to stay the court-martial in this case pending a decision on the “Government’s forthcoming writ of prohibition.” The government cites Rule 19(b)(2)(F) of the Joint Rules of Appellate Procedure for the Courts of Criminal Appeals [JRAP] as authority for granting this stay. The request for a stay, however, does not itself constitute a petition for an extraordinary writ that minimally contains all of the elements required for such a petition as set forth in JRAP R. 19(b)(2). JRAP R. 19(b)(2)(F) is but one of the elements of such a petition. However, given the immediacy of the court-martial proceedings, the court finds it is in the interest of justice under JRAP R. 32, to sua sponte suspend the requirement of Rule 19(b)(2) to file a stay request contemporaneously with the government’s petition for extraordinary relief.

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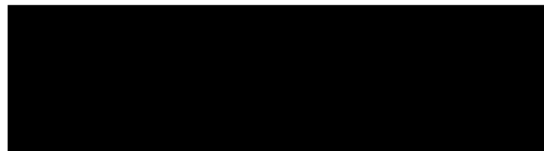
NOW, THEREFORE, IT IS ORDERED:

1. The Petitioner's request for a stay is granted and shall remain in effect until it is vacated by this court.

2. The Petitioner must file the government's petition for extraordinary relief on or before 23 January 2022. The Real Party in interest may, within 20 days of receipt of the government's petition, file an answer with this court. The Petitioner will then have 7 days of receipt of any answer from the Real Party in Interest to submit a reply brief.

DATE: 5 January 2022

FOR THE COURT:



✓JOHN P. TAITT  
Clerk of Court

CF: JALS-DA  
JALS-GA  
JALS-CR3  
JALS-CCZ

JALS-CCR  
Respondent  
Real Party in Interest