

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES,  
Petitioner

v.

**MOTION TO FILE OUT OF TIME  
AND MOTION FOR EXTENSION TO  
FILE BRIEF IN OPPOSITION TO  
PETITION FOR EXTRAORDINARY  
RELIEF IN THE FORM OF A WRIT  
OF PROHIBITION**

Colonel (O-6)  
**PRITCHARD, CHARLES L.**  
Military Judge  
United States Army,  
Respondent

Docket No. ARMY MISC 20220001

Lieutenant Colonel (O-5)  
**DIAL, ANDREW J.**  
United States Army,  
Real Party in Interest

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

COMES NOW, LTC Andrew J. Dial, by and through undersigned appellate defense counsel, pursuant to Rules 24 of this Court's Internal Rules of Practice and Procedure, and move this Court to grant the accused's Motion for Leave to File out of Time and Motion for Extension of Time. The undersigned appellate defense counsel requests a 7-day extension of time until 21 February 2022 to file a Brief in Opposition to Petition for Extraordinary Relief in the Form of a Writ of Prohibition. The Brief in Opposition is currently due on 14 February 2022. Pursuant to Rules 24.1(b), the first undersigned counsel asserts:

1. Consistent with Army Reg. 27-26, Rules of Professional Conduct for Lawyers, undersigned counsel request additional time to ensure that all due diligence has been done to adequately respond to the Government's Brief in this case and to fulfill counsel's ethical obligation to present the real party in interest's interest.
2. On 5 January 2022, this court granted the government's request to stay the proceedings in US v. Dial and ordered that the petitioner file its petition for extraordinary relief on or before 23 January 2022. The court also ordered that the Real Party in interest may respond within 20 days of the receipt of the government's petition.
3. The government filed its Petition for Writ of Prohibition on 24 January 2022 at 2206. The government's writ of prohibition is 221 pages long. On 29 January 2022, the government filed a Supplement to the Writ of Prohibition.
4. On 8 February 2022, the special interest group, Protect Our Defenders, filed an amicus brief, in opposition to petitioner, which this court accepted on 11 February 2022.
5. First undersigned counsel's child tested positive for COVID-19 on 18 January 2022 and had severe symptoms for the next ten days. First undersigned counsel then tested positive for COVID-19 on 20 January 2022 and also experienced significant symptoms.
6. This request is late as undersigned counsel anticipated a shorter editing process. Appellant is not confined and agrees to the request for extension.
7. First undersigned counsel has 23 cases pending at this court and 5 pending at the Court of Appeals for the Armed Forces. Undersigned counsel was assigned this case on 5 January 2022.

For all of these reasons, appellate defense counsel respectfully request that this court grant the instant motion.


MOTION FOR LEAVE TO FILE  
OUT OF TIME

GRANTED: \_\_

DENIED: \_\_\_\_\_

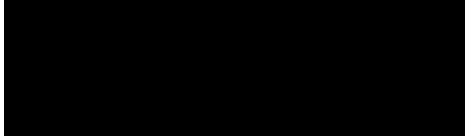
DATE: 14 February 2022

MOTION FOR EXTENSION OF  
TIME TO FILE BRIEF IN  
OPPOSITION:

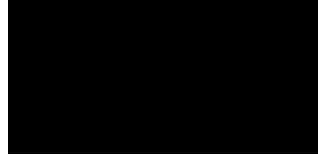
GRANTED: \_\_

DENIED: \_\_\_\_\_

DATE: 14 February 2022



JULIA M. FARINAS  
Major, Judge Advocate  
Appellate Defense Counsel  
Defense Appellate Division



LAUREN M. TEEL  
Captain, Judge Advocate  
Appellate Defense Counsel  
Defense Appellate Division

**CERTIFICATE OF FILING AND SERVICE**

I certify that a copy of the foregoing was electronically submitted to Army  
Court and Government Appellate Division on February 14, 2022.



MELINDA J. JOHNSON  
Paralegal Specialist  
Defense Appellate Division

