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

ORDER

WHEREAS:

On 3 February 2022, Protect Our Defenders' filed an amicus curiae brief in support of Petitioner. On 22 February 2022, The United States Air Force Appellate Division filed an amicus curiae brief in support of the Real Party in Interest. Both briefs were accepted by the Court after motions for leave to file and appear pro hac vice were granted.

NOW, THEREFORE, IT IS ORDERED:

This Court specifies the following issue:

> WHETHER CONVICTIONS OF SERVICEMEMBERS WITHOUT A UNANIMOUS VERDICT FOR OFFENSES UNDER CLAUSE THREE OF ARTICLE 134, UNIFORM CODE OF MILITARY JUSTICE IMPLICATES THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT.

Government appellate counsel, as petitioner, shall file a brief on the specified issue no later than seven days from the date of this order. Defense appellate counsel, on behalf of Real Party in Interest, may then file a reply brief, in response to the specified issue only, no later than seven days following petitioner's filing on the specified issue. Petitioner's brief on the specified issue is separate from any brief that petitioner may file in reply to the Brief in Opposition to Petition for Extraordinary Relief in the Form of a Writ of Prohibition filed by defense appellate

counsel on behalf of the Real Party in Interest on 19 February 2022. The Court hereby extends petitioner's time for filing that reply to coincide with petitioner's response to the specified issue.

DATE: 23 February 2022

FOR THE COURT:

[redacted]

JAMES W. HERRING, JR.
Clerk of Court

CF: JALS-DA
JALS-GA
JALS-CR3
JALS-CCZ
JALS-CCR
Respondent
Real Party in Interest