

**IN THE UNITED STATES ARMY
COURT OF CRIMINAL APPEALS**

JOHNNY GONZALEZ,
Lieutenant Colonel (0-5),
United States Army,
Petitioner

**MOTION TO WITHDRAW
PETITION FOR
EXTRAORDINARY RELIEF IN
THE NATURE OF A WRIT OF
MANDAMUS**

Docket No. ARMY MISC 20230618

v.

JAVIAR RIVERA-ROSARIO,
Colonel (0-6),
United States Army,
Respondent

Tried at Fort Sam Houston, Texas,
on 5-6 December 2023, before a
general court-martial appointed by
the Commander, U.S. Army South,
Colonel Javier Rivera-Rosario,
Military Judge, presiding.

and

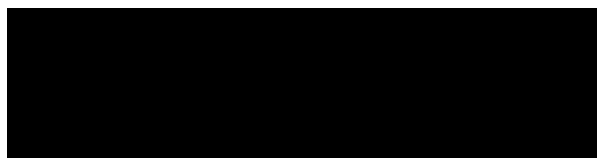
UNITED STATES
Real Party in Interest

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

COMES NOW the undersigned appellate defense counsel, pursuant to Rule 23 of the Rules of Appellate Procedure, and moves to withdraw the previously filed Petition for Extraordinary Relief in the Nature of a Writ of Mandamus in this matter. An updated petition will be filed subsequently to reflect updated factual developments and correct administrative errors in petitioner's previous filing.

Conclusion

WHEREFORE, petitioner respectfully requests that this Court grant his Motion to Withdraw Petition for Extraordinary Relief in the Nature of a Writ of Mandamus.



DANIEL CONWAY
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conway@militaryattorney.com

MOTION TO WITHDRAW PETITION
FOR EXTRAORDINARY RELIEF
IN THE NATURE OF A WRIT OF MANDAMUS

GRANTED: _

DENIED: _____

DATE: 06 December 2023

Certificate of Service

I certify that a copy of the foregoing was sent via electronic submission to the Army Court of Criminal Appeals and the Government Appellate Division on 6 December 2023.



SCOTT HOCKENBERRY
Assistant Civilian Appellate Defense
Counsel
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Woodbridge, VA, 22192
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From: [USARMY Pentagon HQDA OTJAG Mailbox Clerk of Court eFiling](#)
To: [Scott Hockenberry](#); [USARMY Pentagon HQDA OTJAG Mailbox GAD ACCAservice](#); [USARMY Pentagon HQDA OTJAG Mailbox TJ Service](#); [USARMY Pentagon HQDA OTJAG Mailbox DAD ACCAservice](#)
Cc: [Daniel Conway](#); [Rivera-Rosario, Javier E \(Javi\) COL USARMY HQDA OTJAG \(USA\)](#); [Goodwin-Mathers, Shelley D CIV USARMY HQDA OTJAG \(USA\)](#); [Smith, Tyesha L COL USARMY HQDA OTJAG \(USA\)](#); [Vanscoy, Alexander Paul \(Alex\) CPT USARMY HQDA OTJAG \(USA\)](#); [Emmons, Timothy R MAJ USARMY HQDA OTJAG \(USA\)](#)
Subject: Gonzalez, Petition for Extraordinary Relief in the Nature of a Writ of Mandamus, (231206)
Date: Wednesday, December 6, 2023 3:23:00 PM
Attachments: [Gonzalez - 20230618 - Motion to Withdraw Petition for Extraordinary Relief in the Nature of a Writ of Mandamus \(231206\).pdf](#)

Your pleading is in compliance with the Court's Rules of Practice and Procedure, and the pleading is accepted.

Very respectfully,

Office of the U.S. Army Clerk of Court
9275 Gunston Road, Bldg. 1450
Fort Belvoir, VA 22060-5546

From: Scott Hockenberry <hockenberry@militaryattorney.com>
Sent: Wednesday, December 6, 2023 3:20 PM
To: USARMY Pentagon HQDA OTJAG Mailbox Clerk of Court eFiling <usarmy.pentagon.hqda-otjag.mbx.clerk-of-court-efiling@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox GAD ACCAservice <usarmy.pentagon.hqda-otjag.mbx.gad-accaservice@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox TJ Service <usarmy.pentagon.hqda-otjag.mbx.tj-service@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox DAD ACCAservice <usarmy.pentagon.hqda-otjag.mbx.dad-accaservice@army.mil>
Cc: Daniel Conway <conway@militaryattorney.com>; Rivera-Rosario, Javier E (Javi) COL USARMY HQDA OTJAG (USA) <javier.e.riverarosario.mil@army.mil>; Goodwin-Mathers, Shelley D CIV USARMY HQDA OTJAG (USA) <shelley.d.goodwin-mathers.civ@army.mil>; Smith, Tyesha L COL USARMY HQDA OTJAG (USA) <tyesha.l.smith5.mil@army.mil>; Vanscoy, Alexander Paul (Alex) CPT USARMY HQDA OTJAG (USA) <alexander.p.vanscoy.mil@army.mil>; Emmons, Timothy R MAJ USARMY HQDA OTJAG (USA) <timothy.r.emmons2.mil@army.mil>
Subject: [Non-DoD Source] RE: **REJECTED**RE: Gonzalez, Petition for Extraordinary Relief in the Nature of a Writ of Mandamus, (231206)

I hereby certify the following document was transmitted on the date/time of this message:

Gonzalez – 20230618 – Motion to Withdraw Petition for Extraordinary Relief in the Nature of a Writ of Mandamus (231130)

1 attachment was served.

Respectfully,
Scott Hockenberry
Attorney-At-Law

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Phone: 586-930-8359

Digital Fax: 800-908-8310

Daniel Conway & Associates

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From: USARMY Pentagon HQDA OTJAG Mailbox Clerk of Court eFiling <usarmy.pentagon.hqda-otjag.mbx.clerk-of-court-efiling@army.mil>

Sent: Wednesday, December 6, 2023 2:33 PM

To: Scott Hockenberry <hockenberry@militaryattorney.com>; USARMY Pentagon HQDA OTJAG Mailbox GAD ACCAservice <usarmy.pentagon.hqda-otjag.mbx.gad-accaservice@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox TJ Service <usarmy.pentagon.hqda-otjag.mbx.tj-service@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox DAD ACCAservice <usarmy.pentagon.hqda-otjag.mbx.dad-accaservice@army.mil>

Cc: Daniel Conway <conway@militaryattorney.com>; Rivera-Rosario, Javier E (Javi) COL USARMY HQDA OTJAG (USA) <javier.e.riverarosario.mil@army.mil>; Goodwin-Mathers, Shelley D CIV USARMY HQDA OTJAG (USA) <shelley.d.goodwin-mathers.civ@army.mil>; Smith, Tyesha L COL USARMY HQDA OTJAG (USA) <tyesha.l.smith5.mil@army.mil>; Vanscoy, Alexander Paul (Alex) CPT USARMY HQDA OTJAG (USA) <alexander.p.vanscoy.mil@army.mil>; Emmons, Timothy R MAJ USARMY HQDA OTJAG (USA) <timothy.r.emmons2.mil@army.mil>

Subject: **REJECTED**RE: Gonzalez, Petition for Extraordinary Relief in the Nature of a Writ of Mandamus, (231206)

Your filing is rejected. Please file a Motion to Withdraw your Petition for Extraordinary Relief. Then you may refile your Petition, but please do not title it Amended (due to it being withdrawn).

Very respectfully,

Office of the U.S. Army Clerk of Court

9275 Gunston Road, Bldg. 1450

Fort Belvoir, VA 22060-5546

From: Scott Hockenberry <hockenberry@militaryattorney.com>

Sent: Wednesday, December 6, 2023 2:02 PM

To: USARMY Pentagon HQDA OTJAG Mailbox Clerk of Court eFiling <usarmy.pentagon.hqda-otjag.mbx.clerk-of-court-efiling@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox GAD ACCAservice <usarmy.pentagon.hqda-otjag.mbx.gad-accaservice@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox TJ Service <usarmy.pentagon.hqda-otjag.mbx.tj-service@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox DAD ACCAservice <usarmy.pentagon.hqda-otjag.mbx.dad-accaservice@army.mil>

Cc: Daniel Conway <conway@militaryattorney.com>; Rivera-Rosario, Javier E (Javi) COL USARMY HQDA OTJAG (USA) <javier.e.riverarosario.mil@army.mil>; Goodwin-Mathers, Shelley D CIV USARMY HQDA OTJAG (USA) <shelley.d.goodwin-mathers.civ@army.mil>; Smith, Tyesha L COL USARMY HQDA OTJAG (USA) <tyesha.l.smith5.mil@army.mil>; Vanscoy, Alexander Paul (Alex) CPT USARMY HQDA OTJAG (USA) <alexander.p.vanscoy.mil@army.mil>; Emmons, Timothy R MAJ USARMY HQDA OTJAG (USA) <timothy.r.emmons2.mil@army.mil>

Subject: [Non-DoD Source] RE: Gonzalez, Petition for Extraordinary Relief in the Nature of a Writ of Mandamus, (231206)

I hereby certify the following document was transmitted on the date/time of this message:

Gonzalez – 20230618 – Amended Petition for Extraordinary Relief in the Nature of a Writ of Mandamus (231130)

1 attachment was served.

Respectfully,
Scott Hockenberry
Attorney-At-Law
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From: USARMY Pentagon HQDA OTJAG Mailbox Clerk of Court eFiling <usarmy.pentagon.hqda-otjag.mbx.clerk-of-court-efiling@army.mil>

Sent: Wednesday, December 6, 2023 11:24 AM

To: Scott Hockenberry <hockenberry@militaryattorney.com>; USARMY Pentagon HQDA OTJAG Mailbox GAD ACCAservice <usarmy.pentagon.hqda-otjag.mbx.gad-accaservice@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox TJ Service <usarmy.pentagon.hqda-otjag.mbx.tj-service@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox DAD ACCAservice <usarmy.pentagon.hqda-otjag.mbx.dad-accaservice@army.mil>

Cc: Daniel Conway <conway@militaryattorney.com>; Rivera-Rosario, Javier E (Javi) COL USARMY HQDA OTJAG (USA) <javier.e.riverarosario.mil@army.mil>; Goodwin-Mathers, Shelley D CIV USARMY HQDA OTJAG (USA) <shelley.d.goodwin-mathers.civ@army.mil>; Smith, Tyesha L COL USARMY HQDA OTJAG (USA) <tyesha.l.smith5.mil@army.mil>

Subject: RE: Gonzalez, Petition for Extraordinary Relief in the Nature of a Writ of Mandamus, (231206)

Your pleading is in compliance with the Court's Rules of Practice and Procedure, and the

pleading is accepted. Please note for future filings, in accordance with Rule 13.2(e) each filing with the court must be submitted in a separate email.

Very respectfully,

Office of the U.S. Army Clerk of Court
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Fort Belvoir, VA 22060-5546

From: Scott Hockenberry <hockenberry@militaryattorney.com>
Sent: Wednesday, December 6, 2023 11:06 AM
To: USARMY Pentagon HQDA OTJAG Mailbox Clerk of Court eFiling <usarmy.pentagon.hqda-otjag.mbx.clerk-of-court-efiling@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox GAD ACCAservice <usarmy.pentagon.hqda-otjag.mbx.gad-accaservice@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox TJ Service <usarmy.pentagon.hqda-otjag.mbx.tj-service@army.mil>; USARMY Pentagon HQDA OTJAG Mailbox DAD ACCAservice <usarmy.pentagon.hqda-otjag.mbx.dad-accaservice@army.mil>
Cc: Daniel Conway <conway@militaryattorney.com>
Subject: [Non-DoD Source] FW: Gonzalez, Petition for Extraordinary Relief in the Nature of a Writ of Mandamus, (231206)

Clerk of Court:

I am forwarding the below message and the attachments regarding a just-filed petition. I believe the clerk was inadvertently left off the original email distro. This is being filed mid-trial so I apologize for the oversight. I'm copying the appellate divisions as well.

Please acknowledge receipt at your convenience.

Respectfully,
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From: Daniel Conway <conway@militaryattorney.com>
Sent: Wednesday, December 6, 2023 10:51 AM

To: usarmy.pentagon.hqda-otjag.mbx.gad-accaservice@army.mil; usarmy.pentagon.hqda-otjag.mbx.tj-service@army.mil; usarmy.pentagon.hqda-otjag.mbx.dad-accaservice@army.mil

Cc: Scott Hockenberry <hockenberry@militaryattorney.com>; Whitlock, Andrew A III CPT USARMY ASA (USA) <andrew.a.whitlock.mil@army.mil>; Harman, Andrew J CPT USARMY MEDICAL COE (USA) <andrew.j.harman.mil@army.mil>; Brunson, Claudia D CPT USARMY ARNORTH (USA) <claudia.d.brunson.mil@army.mil>; Rivera-Rosario, Javier E (Javi) COL USARMY HQDA OTJAG (USA) <javier.e.riverarosario.mil@army.mil>

Subject: Gonzalez, Petition for Extraordinary Relief in the Nature of a Writ of Mandamus, (231206)

I certify the following documents were transmitted on the date and time of this message:

Gonzalez, Petition for Extraordinary Relief in the Nature of a Writ of Mandamus, (231206)

Gonzalez, Motion for Stay in Proceedings, (231206)

Respectfully,

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