

IN THE UNITED STATES ARMY COURT OF CRIMINAL APPEALS

UNITED STATES,
Petitioner

**REQUEST FOR A STAY OF
PROCEEDINGS**

v.

Case No. ARMY Misc. _____

Lieutenant Colonel (O-5)
JONES, PAMELA L.,
Military Judge,
Respondent

Sergeant First Class (E-7)
STARR, BRYAN D.,
U.S. Army
Real Party in Interest

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

COMES NOW the United States, by and through undersigned appellate government counsel, and requests a stay of proceedings in *United States v. Sergeant First Class Bryan D. Starr* pending this Court's decision on the Government's forthcoming writ of prohibition.

The United States has brought charges against Sergeant First Class [SFC] Bryan D. Starr, with a panel trial docketed for 7 April 2025. Prior to trial, defense filed a motion requesting the trial judge to reopen the Article 32(b), UCMJ preliminary hearing in strict compliance with R.C.M. 405 and in accordance with

PANEL NO. _____

the Special Court-Martial Convening Authority's purported order from 1 November 2024.


On 12 December 2024, the trial judge issued a ruling on the Defense's motion ordering that the case be returned to the Special Court-Martial Convening Authority or "Preliminary Hearing Officer Convening Authority" for action. On 15 December 2024 the Government requested reconsideration of the issue, requesting clarification as to what action the Special Court-Martial Convening Authority could take under R.C.M. 405(m)(5) in a covered offense case where a Special Trial Counsel exercised authority *inter alia*. On 24 February 2025,¹ the military judge issued a written ruling denying the Government's request for reconsideration, stating: "It would be improper for the court to agree or disagree with the preliminary hearing officer convening authority's decision to direct the preliminary hearing is reopened. Rather, the court considers whether the preliminary hearing officer has the authority to do so—the court finds that he does. The court directs the preliminary hearing officer convening authority to reopen the preliminary hearing and to proceed with the actions as articulated in his memorandum dated 1 November 2024."

¹ The United States received the military judge's ruling on the date of this pleading, and therefore it has twenty (20) days to file the petition for extraordinary relief. See Rule 19(b)(1).

Pursuant to Rule 19(b)(F) of this Court's Practice and Procedure, the petitioner may request a stay of proceedings when filing a petition for extraordinary relief. The United States hereby requests a stay of proceedings to prevent the case from proceeding until this Court determines whether to grant the requested relief.

The Government intends to submit a petition for extraordinary relief based on the military judge's ruling. As of the time of this filing, the case of *United States v. Starr* is scheduled to begin on or about 7 April 2025. Witnesses for the trial will be traveling from OCONUS to testify, and some will be en route within two weeks in order to return for trial. Without the stay of proceedings, the trial will proceed before the United States is able to file a complete and thorough petition.

WHEREFORE, the United States respectfully asks this Court grant a stay of proceedings in the ongoing proceeding.



ANTHONY J. SCARPATI
CPT, JA
Branch Chief, Government
Appellate Division

CERTIFICATE OF SERVICE, U.S. v. STARR (Misc _____)

I hereby certify that a copy of the foregoing was sent via electronic submission to the Defense Appellate Division at [REDACTED]
[REDACTED] on the 7th day of March, 2025.

[REDACTED]
Senior Paralegal Specialist
Government Appellate Division
9275 Gunston Road
Fort Belvoir, VA 22060-5546
[REDACTED]