

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

UNITED STATES,  
Petitioner

v.

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

Lieutenant Colonel (O-5)  
**STARR, BRYAN D.,**  
U.S. Army  
Real Party in Interest

**PETITION FOR  
EXTRAORDINARY RELIEF IN  
THE NATURE OF A WRIT OF  
PROHIBITION (CORRECTED)**

Case No. ARMY Misc. 20250096

**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, pursuant to the Joint Rules of Appellate Procedure for the Courts of Criminal Appeals [J.R.A.P. R.], (1 Jan. 2019) 19(b), and seeks extraordinary relief. Pursuant to 28 U.S.C. § 1651, the United States petitions this court for extraordinary relief in the nature of a writ of prohibition. Specifically, this

**PANEL NO. \_\_**

court should vacate respondent's order that the Article 32 preliminary hearing be reopened.<sup>1</sup>

### **Relevant Facts and History of the Case**

On 22 January 2024, the United States preferred charges against Sergeant First Class [SFC] Bryan D. Starr. (Charge Sheet). An Article 32 hearing was held on 21 February 2024. During the hearing, defense moved to admit the Office of the Special Trial Counsel [OSTC] Standard Operating Procedures [SOP] for consideration the preliminary hearing officer [PHO], however, they offered the outdated version. The government objected but the PHO ultimately ruled in favor of admission. The PHO requested the government provide the most up to date version following the hearing. The government failed (though not intentionally) to provide the SOP, the PHO issued his report (not realizing he still had the old version), and the accused was arraigned on 31 May 2024. At arraignment, defense filed a motion objecting to the arraignment based on the government's alleged failure to substantially comply with RCM 405. (App. Ex. III). Following

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<sup>1</sup> The government fashions this request as a writ of prohibition such that the military judge is prevented from issuing his unanimous panel instruction. To the extent this writ would be more appropriately fashioned as a writ of mandamus, the government hereby makes this alternative request. This court applies "the same test for a writ of prohibition as for a writ of mandamus," and therefore, the substance of the writ applies the same. *United States v. Gross*, 73 M.J. 864, 866 (Army Ct. Crim. App. 2014).

arraignment, and as a result of defense motion, the military judge ordered the Article 32 hearing re-opened as the PHO failed to consider the updated OSTC SOP. (App. Ex. XI). On 24 June 2024, the PHO gave notice to all parties via email that he was reopening the hearing via email to consider the updated SOP, per the military judge's order. (App. Ex. XXXVII & XXXVIIa.) The PHO provided an addendum to his final report to all parties on 2 July 2024. *Id.*

Defense filed a second motion objecting to the form of the preliminary hearing for failing to comply with RCM 405 and as a violation of the accused's rights. (App. Ex. XXXVII) The military judge ordered a new Article 32 to be held in person which was held on 13 October 2024. (App. Ex. LII). The PHO issued his report on 28 October 2024. (App. Ex. LXIX & LXIXa.) The military judge had docketed the trial for 4 November 2024, and as a result the OSTC referral authority Colonel [COL] Catherine Brantley, in accordance with RCM 405(m)(5) re-affirmed her previous referral to a General Court-Martial. *Id.* Defense filed timely objections<sup>2</sup> to the hearing on 30 October 2024. *Id.* On 1 November 2024, the special court-martial convening authority COL Justin Harper reviewed those objections and directed the hearing be reopened with a new PHO, specifically one

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<sup>2</sup> Defense objected to (1) the PHO's impartiality, (2) the fact that the PHO didn't order production of, or consider audio from the Accused's guilty plea and sentencing in civilian court, and (3) the fact that the victim's representative, who did not wish to be present, was not present.

outside the Maneuver Center of Excellence Office of the Staff Judge Advocate. *Id.* He did not have the authority to direct such a re-opening. The referral authority reviewed those objections and the recommendation of the special court-martial convening authority and again re-affirmed her previous referral on 2 November 2024. (App. Ex. LXX & LXXa.) Defense filed a third motion, requesting the military judge reopen the Article 32(b), UCMJ, preliminary hearing in strict compliance with RCM 405 and in accordance with the special court-martial convening authority's purported order on 1 November 2024. (App. Ex. LXIX). On 8 November 2024, the Brigade Commander acting as special court-martial convening authority clearly testified in this case that he did not support prosecution of the accused, and that he wished to permit the accused to retire from the Army. (R. at 977-979).

On 12 December 2024, the military judge issued a ruling on defense's motion ordering the case be returned to the special court-martial convening authority or "preliminary Hearing Officer convening authority" for action. (App. Ex. LXXXVIII). On 15 December 2024, the government filed a motion to reconsider the military judge's ruling ordering the case returned to the "preliminary hearing officer convening authority." (App. Ex. LXXXI.)

On 24 February 2025, 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.” (App. Ex. XC). In the same order, the military judge ordered that the preliminary hearing officer convening authority conduct the Article 32 preliminary hearing by 10 March 2025, and trial remains currently docketed for 7 April 2025. *Id.*

### **Statement of the Issue**

WHETHER THE RESPONDENT ERRED WHEN SHE DETERMINED THE CONVENING AUTHORITY HAD THE AUTHORITY TO REOPEN THE ARTICLE 32 PRELIMINARY HEARING AFTER THE GOVERNMENT SUBSTANTIALLY COMPLIED WITH RULE FOR COURTS-MARTIAL 405 AND THE SPECIAL TRIAL COUNSEL, AS THE REFERRAL AUTHORITY, EXERCISED STATUTORY AUTHORITY AND MADE A BINDING REFERRAL DECISION UNDER 10 UNITED STATES CODE § 824a.

### **Jurisdictional Basis for Relief Sought**

This court has jurisdiction over this case pursuant to the All Writs Act, which grants power to “all courts established by Act of Congress [to] issue all

writs necessary or appropriate in aid of their respective jurisdiction and agreeable to the usages and principles of law.” 28 U.S.C. § 1651(a). This case meets the Act’s required criteria, as (1) the requested writ is “in aid of the court’s existing jurisdiction,” and (2) the requested writ is “necessary or appropriate.” *Denedo v. United States*, 66 M.J. 114, 119 (C.A.A.F. 2008) (internal quotations omitted).

**A. This writ is “in aid of” this court’s existing jurisdiction because (1) the military judge’s ruling has the potential to directly affect the findings and sentence and (2) it seeks to determine the proper exercise of a convening authority over a covered offense where the OSTC has exclusive authority.**

This writ is “in aid of” the court’s existing jurisdiction because it supports Article 66, UCMJ, statutory jurisdiction. *See LRM v. Kastenberg*, 72 M.J. 364, 368 (C.A.A.F. 2013) (quoting *Denedo*, 66 M.J. at 120) (“In the context of military justice, ‘in aid of’ includes cases where a petitioner seeks ‘to modify an action that was taken within the subject matter jurisdiction of the military justice system.’”). This court has subject-matter jurisdiction over appeals by an accused “from the judgment of a court-martial,” cases with certain sentences, and those that trigger automatic review. UCMJ art. 66(b)(1–3). In order for this court to conduct an Article 66, UCMJ review, there must first be a conviction. *See Kastenberg*, 72 M.J. at 368 (quoting *Ctr. for Constitutional Rights v. United States*, 72 M.J. 126, 129 (C.A.A.F. 2013)) (“To establish subject-matter jurisdiction, the harm alleged must have had ‘the potential to directly affect the findings and sentence.’”).

In the present case, the accused is charged with Involuntary Manslaughter While Perpetrating Child Endangerment, Child Endangerment by Culpable Negligence Resulting in Grievous Bodily Harm, and Negligent Homicide. (Charge Sheet). If he is convicted, this court would have jurisdiction over his appeal. UCMJ art. 66(b). Here, the military judge determined that a special court martial convening authority has the authority to direct the reopening of a preliminary hearing after the government has substantially complied with RCM 405 and the OSTC, as the referral authority, made a binding referral decision under 10 U.S.C. § 824a. As a result, under this interpretation, the special court-martial convening authority can prevent charges from going to trial, even after referral by the OSTC by continuously directing a case back to a preliminary hearing as the convening authority deems appropriate, as occurred in this case. Therefore, this ruling has “the potential to directly affect the findings and the sentence” because, under this interpretation the case could never actually get to the trial phase. In the alternative, it could force the referral authority to refer to a special court martial, which does not require a preliminary hearing, but instead limits the possible sentence an accused could receive.

This writ petition is also “in aid of” this court’s jurisdiction because it seeks to determine the proper exercise of the OSTC’s authority under 10 U.S.C. § 824a. This authority to refer a covered offense to trial is statutorily granted and binding

upon any convening authority. *See Ctr. for Con'l Rights v. United States*, 72 M.J. 126, 129 (C.A.A.F. 2013) (citing *Hasan v. Gross*, 71 M.J. 416 (C.A.A.F. 2012)).

Allowing the special court martial convening authority to interfere with that authority because he or she does not believe a case should go to trial, goes against the entire purpose of the statute. This has the potential to prevent a multitude of cases from ever making it into a courtroom. Accordingly, the requested writ is “in aid of” this court’s jurisdiction. For the reasons discussed below, the writ is “necessary [and] appropriate.” 28 U.S.C. § 1651(a). Accordingly, this court has jurisdiction, and the writ should issue.

### **Specific Relief Requested**

The government requests this court issue a writ of prohibition to preclude action by the special court-martial convening authority in a case where the OSTC has asserted jurisdiction and referred a case to a General Court Martial.

Additionally, the government requests this court vacate the military judge’s 24 February 2025 order directing the “the preliminary hearing officer convening authority to reopen the preliminary hearing.”

The government requests that this court stay the proceedings until resolution of the present petition for extraordinary relief.

### **Reasons for Granting the Requested Relief**



The All Writs Act, 28 U.S.C. § 1651(a), grants military appellate courts authority to issue extraordinary writs necessary or appropriate in aid of their jurisdiction. *Loving v. United States*, 62 M.J. 235, 246 (C.A.A.F. 2005) (citing *Clinton v. Goldsmith*, 526 U.S. 529, 534 (1999)). A writ for extraordinary relief is a “drastic instrument which should be invoked only in truly extraordinary situations.” *United States v. Howell*, 75 M.J. 386, 390 (C.A.A.F. 2016) (citing *United States v. Labella*, 15 M.J. 228, 229 (C.M.A. 1983)). This court will only issue such a writ if a petitioner demonstrates: “1. There is no other adequate means of relief; 2. The right to issuance of the writ is clear and indisputable; and 3. Issuance of a writ is appropriate under the circumstances.” *Pritchard*, 82 M.J. at 690 (citing *Cheney v. United States Dist. Court*, 542 U.S. 367, 380–81 (2004)).

**A. This writ is “necessary or appropriate” because no adequate legal remedy is available.**

There is no other adequate means of relief in this case short of the issuance of a writ of prohibition against the military judge’s order. The military judge’s order does not “terminate the proceedings with respect to a charge or specification[, or] exclude[] evidence that is substantial proof of a fact material in the proceeding.” Art. 62(a)(1)(A, B).<sup>3</sup> Here, the military judge ordered the preliminary hearing be reopened in accordance with the special court-martial

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<sup>3</sup> Nor does it implicate any of the other jurisdiction requirements listed under Art. 62, UCMJ.

convening authority's order to do so. This is the third time the military judge has ordered the reopening of the Article 32(b) preliminary hearing. Again, the special court-martial convening authority has expressed that he does not believe this case should be prosecuted, and that the accused should be permitted to retire. (R. at 977-979). This order, once again, puts the case squarely under the exclusive authority of this same convening authority, who has expressed disapproval of the prosecution in this case, even after the OSTC has referred charges.

Although this case does not qualify for an Article 62, UCMJ, appeal by the United States, it does put the government in a position where delay is prejudicial to its case. For example, such an order could result in substantial delay, or even delay in perpetuity, akin to an indefinite abatement of proceedings, which could seriously jeopardize the government's case. *See, e.g., United States v. Ramirez*, 2021 CCA LEXIS 710 (A.F. Ct. of Crim. App. 30 Dec. 2021) (reversing a military judge's abatement of case indefinitely with facts unsupported by the record) (citing *United States v. Simmermacher*, 74 M.J. 196, 199 (C.A.A.F. 2015)). Because the military judge in this case made no finding as to the substantive or procedural requirements that were allegedly lacking, but rather deferred to the convening authority's purported order reopening the preliminary hearing, she has inappropriately ceded her own authority and subverted the statutory authority of the special trial counsel's referral authority by substituting it with that of the convening authority.

**A. The right to issuance of the writ is clear and indisputable.**

**1. The military judge failed to apply the plain meaning 10 USC § 824a.**

Issues of statutory interpretation are reviewed by this court *de novo*. *United States v Badders*, 82 M.J. 299 (CA.A.F. 2022) (citing *United States v. Jacobsen*, 77 M.J. 81, 84 (C.A.A.F. 2017)); *see also United States v. Mendoza*, 2024 CAAF LEXIS 590, \_\_ M.J. \_\_ (C.A.A.F. 2024) (internal citations omitted). The first step in statutory interpretation cases is to determine whether the language at issue has a plain and unambiguous meaning regarding the particular dispute in the case. *Id.* If the statutory language is unambiguous and the statutory scheme is coherent and consistent, the inquiry is done. *Id.*

Whether the statutory language is ambiguous is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole. *Id.* When the court engages in this analysis, the court typically seeks to harmonize independent provisions of a statute. *Id.* To this end, the CAAF employs the surplusage canon, requiring that, if possible, every word and every provision is to be given effect and that no word should be ignored or needlessly be given an interpretation that causes it to duplicate another provision or to have no consequences. *Id.*

Under 10 U.S.C. § 824a, in the Fiscal Year 2022 National Defense Authorization Act (NDAA), Congress granted only the special trial counsel exclusive authority to determine and exercise authority over covered offenses—not commanders or convening authorities. “With respect to charges and specifications alleging any offense over which a special trial counsel exercises authority, a special trial counsel shall have exclusive authority . . . to refer the charges and specifications for trial by general court-martial.” 10 U.S.C. § 824a(c)(3)(B). Furthermore, “[t]he determination of a special trial counsel to refer charges and specification to a court-martial for trial shall be binding on any applicable convening authority for the referral of such charges and specifications.” 10 U.S.C. § 824a(c)(4).

In accordance with 10 USC § 824a., Art. 24a, the OSTC exercised exclusive authority on 17 January 2024 over covered, known, and related offenses committed by SFC Bryan Starr on 29 November 2020.<sup>4</sup> As such, the OSTC has exclusive authority to withdraw or dismiss the charges, refer the charges, enter into a plea agreement, or determine if any authorized rehearing is impracticable in this case. Article 24a(c)(3)(A–D). On 8 May 2024, the special trial counsel referral authority,

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<sup>4</sup> The OSTC has exclusive authority to determine if a reported offense is a covered offense and shall exercise authority over any such offense in accordance with this chapter. Art. 24a(c)(2)(A).

COL Catherine Brantley, referred the charges and specifications against SFC Bryan Starr to a general court-martial for trial, and further reaffirmed her referral decision on 29 October 2024. (App. Ex. LXX & App. LXX(a)). That referral is binding on *any* applicable convening authority for referral of the charges. Article 24a(c)(4). Congress's intent in granting sole and exclusive authority to OSTC, as codified in the statutory language of 10 USC § 824a., is that no one, especially commanders serving as convening authorities, can subvert or circumvent the exclusive authority of OSTC to refer charges to court-martial. The Rules for Courts-Martial [RCM] are to be read, understood, and defined under the umbrella of this statute for all covered offenses.

In relevant part, the Rules for Courts-Martial [RCM] 405(c)(2) and 405(m)(5), state, respectively:

For charges and specifications over which a special trial counsel has exercised authority, the special trial counsel shall determine whether a preliminary hearing is required. If a special trial counsel determines that a hearing is required, the special trial counsel shall request that a convening authority provide a preliminary hearing officer. Upon such a request, the convening authority shall provide a preliminary hearing officer and direct a preliminary hearing in accordance with this rule. *If a special trial counsel determines a previous preliminary hearing is required to be reopened*, the convening authority shall direct the preliminary hearing to be reopened.

The convening authority may direct that the preliminary hearing be reopened or take other action, as appropriate. *For cases where a special trial counsel has exercised authority, the special trial counsel may request the convening authority reopen the convening authority reopen the preliminary hearing.* Upon such request, the convening authority

shall reopen the preliminary hearing. This paragraph does not prohibit a convening authority or special trial counsel from *taking other action* prior to the expiration of five days allotted for submitting objections.

(emphasis added).

The military judge interpreted RCM 405(m) to give both the convening authority and the special trial counsel referral authority simultaneous authority to direct a preliminary hearing be re-opened after objections in a covered offense case. The military judge specifically found: “[t]he Court still is of the opinion that the preliminary hearing officer convening authority has the authority to proceed with the actions he articulated in the 1 November 2024 memorandum.” (App. Ex. XC, p. 7). This is an erroneous reading of the statute, especially when read in conjunction with RCM 405(c)(2). This interpretation ignores the plain language of the statute and a contextual reading of the statute. Under the military judge’s interpretation, a commander, acting as a convening authority, always has the option to direct any preliminary hearing be reopened. However, the statute plainly states “[f]or cases where a special trial counsel has exercised authority, the special trial counsel may request the convening authority reopen the preliminary hearing.” Rules for Courts-Martial [R.C.M.] 405(m)(5). The plain language of the statute expressly contemplates sole authority resting with the appropriate special trial counsel for covered offenses, especially when “reopen[ing]” the hearing is

explicitly contemplated under the authority of the special trial counsel. R.C.M. 405(c)(2).

The military judge relies on 10 U.S.C. § 824a.(c)(3)(A-D) in making her determination. Her determination is based, in part, on the lack of a listed “exclusive authority to reopen a preliminary hearing for OSTC covered offenses.” (App. Ex. XC). But such an interpretation is contrary to Congress’s stated intent. The RCM was amended and published in the 2024 edition of the Manual for Courts-Martial to comport to this new statute. *Manual for Courts-Martial, United States* (2024 ed.) [MCM]. This includes “Chapter IV. Forwarding and disposition of charges.” *Id.* The function of the preliminary hearing remains the same—to ascertain and impartially weigh the facts needed for the limited scope and purpose of the preliminary hearing—the process for cases that concern covered offenses is not. “The preliminary hearing is still not intended to perfect a case against the accused and is not intended to serve as a means of discovery or to provide a right of confrontation required at trial.” R.C.M. 405(a), *discussion* (2024 ed.). A preliminary hearing is still a requirement prior to the referral of charges to a general court-martial, but in cases that the OSTC has exercised authority, a special trial counsel must request a preliminary hearing officer from the convening authority. R.C.M. 401A(c)(1).

In instances concerning non-covered offenses, the commander exercising either summary or special court-martial jurisdiction *must* direct a preliminary hearing. *See* RCM 403(b)(5) & RCM 404(5). Both RCM 404 and 405 make clear, a convening authority *does not* have the authority to direct an Article 32 for charges that a special trial counsel has exercised authority over. Rather, a request for a preliminary hearing *must* come from a special trial counsel before the convening authority can take any action, thus the convening authority would be acting at the direction of the special trial counsel. R.C.M. 401A; R.C.M. 405(c)(2) (“If a special trial counsel determines a previous preliminary hearing is required to be reopened, the convening authority shall direct the preliminary hearing to be reopened.”). There is no indication in the statute or the RCM that for a covered offense where a special trial counsel has exercised that authority, a convening authority can direct the reopening of such a hearing of their own volition. *Id.* To interpret the rule any other way would mean that a convening authority could subvert or circumvent the exclusive authority of OSTC outlined in 10 U.S.C. § 824a by allowing a convening authority to open, or reopen an Article 32 preliminary hearing in perpetuity, at their discretion, without regard or request from the special trial counsel, objections under RCM 405(m)(5) notwithstanding.



This is contrary to Congress's stated intent in the statute regarding a special trial counsel's referral decision.<sup>5</sup>

In this case, the military judge's interpretation of the rule and the statute fails to read the rule in its entirety with the surrounding provisions. A lack of an express authority for a special trial counsel to direct a preliminary hearing (directing is not anywhere in the RCM, only requesting) within the statute, does not negate a special trial counsel's authority to refer a case to trial after he or she determines that there has been substantial compliance with RCM 405(a) and made a written determination under RCM 406(b). *See* RCM 601(d). Furthermore, the Brigade Commander acting as a special court-martial convening authority clearly testified in this case that he did not support the OSTC's prosecution of the accused, and that he wished to permit the accused to retire from the Army. (R. at 977-979).

There is no clearer case for the existence of independent prosecutorial authority than a commander who is attempting to subvert a special trial counsel's referral decision than by purporting to order a different outcome as he did on 1

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<sup>5</sup> If such an interpretation were to stand, a convening authority could re-open a preliminary hearing as many times as they wish and continue to send a case which OSTC has exercised authority over, back to hearing. This could prevent cases from ever making it to the court martial phase of the judiciary process. The government acknowledges that there would have to be a valid objection, but defense could find an objection after every hearing that the convening authority found reasonable, especially if the convening authority does not believe the case should go to trial—as was the case in this matter before the court.

November 2024. *Id.* Therefore, in this case when the special trial counsel referral authority did not request the preliminary hearing be re-opened, and determined there was substantial compliance with RCM 405, the government has a clear and indisputable right to a writ to vacate the military judge's 24 February 2025 order, and to proceed to trial.

**2. Even if the military judge correctly interpreted the statute and RCM 405, the government substantially complied with RCM 405.**

As it relates to whether the government substantially complied with Article 32 in the reopened hearing, the military judge in her ruling seemingly concedes that the government cured the lack of substantial compliance. (App. Ex. XC, p. 7). Additionally, the military judge failed to address the concept that the special trial counsel referral authority need not wait five days, per RCM 405(m)(5), to take action. The only actions available to a special trial counsel are to prefer charges, to refer charges, to dismiss charges, or to defer charges. R.C.M. 401A(c)(1–3).

The military judge's order to return the case to the special court-martial convening authority for action is without precedent for an OSTC covered offense and is not contemplated by the rule, nor is it in accord with the intent of Congress in 10 U.S.C. § 824a. The military judge applied a standard from *United States v. Davis*, 64 M.J. 445, 449 (C.A.A.F. 2007), regarding Article 32(b) "investigations" that did not contemplate the existence of independent OSTC authority under 10 U.S.C. § 824a, and which should not control the analytical framework as to what

constitutes “substantial compliance” in this case. Simply put, RCM 405(m)(5) regarding objections after a preliminary hearing for covered offenses did not exist at the time of the *Davis* decision; it follows that that precedent used by the military judge should not control how the trial court analyzes “substantial compliance” in this case involving the accused and charges referred by a special trial counsel.

The government did not violate RCM 405, when it re-affirmed the referral on 29 October 2024 because it was acting within its authority under the statute and the RCM. Rules for Courts-Martial 405 must be read as a whole and in accordance with the entirety of Chapter IV, and not piecemeal as demanded by the defense—especially in light of the sweeping changes to the rule after 28 December 2023. Knowing that a convening authority *cannot* direct a preliminary hearing in a covered offense case, such as this case, *without* a request from a special trial counsel, it necessarily follows that the only reading of RCM 405(m) that withstands logical scrutiny is that a convening authority will reopen a hearing only at the request of a special trial counsel referral authority.

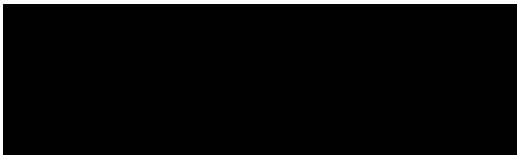
#### **B. The Issuance of the Writ is Appropriate Under the Circumstances.**

As discussed above, the facts of this case are unique. A commander and military judge are preventing a lawful exercise of the OSTC’s authority under 10 U.S.C. § 824a to refer charges after an Article 32(b), UCMJ, preliminary hearing in substantial compliance with RCM 405(a) and RCM 601(d). Under the unique

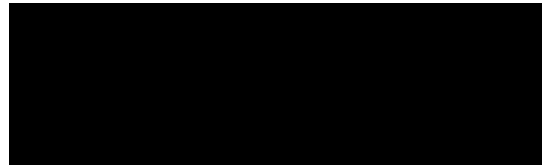
facts of this case, permitting the convening authority to reopen the Article 32(b) hearing impermissibly infringes upon the OSTC's statutory authority. The military judge's statutory interpretation is an erroneous interpretation wholly inconsistent with Congressional intent in 10 U.S.C. § 824a. Accordingly, nothing short of a writ of prohibition issued by this court can prevent the harm caused by the military judge's error. In other words, there is no other adequate means of relief.

### **CONCLUSION**

WHEREFORE, the United States respectfully asks this honorable court grant the petition and vacate the military judge's 24 February 2025 order.



WILLIAM T. WICKS  
LTC, JA  
Special Trial Counsel  
Office of Special Trial Counsel



MORGHAN E. BEAUDOIN  
MAJ, JA  
Special Trial Counsel  
Office of Special Trial Counsel

**CERTIFICATE OF SERVICE, U.S. v. STARR (Misc 20250096)**

I hereby certify that a copy of the foregoing was sent via electronic submission to the Defense Appellate Division at [REDACTED] [REDACTED] on the 17th day of March, 2025.

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