

# UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before the Court Sitting *En Banc*

**Major NIDAL M. HASAN**  
**United States Army, Petitioner**

v.

**THE UNITED STATES OF AMERICA,**  
**and**  
**Colonel GREGORY GROSS, Military Judge,**  
**Respondents**

**ARMY MISC 20120876**  
**ARMY MISC 20120877**

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ORDER  
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On 19 September 2012, petitioner filed with this court a Petition for Relief in the Nature of an Extraordinary Writ under Docket No. ARMY MISC 20120876, raising several issues relating to the military judge holding petitioner in contempt. On 20 September 2012, petitioner filed a second Petition for Relief in the Nature of an Extraordinary Writ under Docket No. ARMY MISC 20120877, raising issues related to the military judge's order to forcibly shave petitioner. On 21 September 2012, we ordered the government to show cause why the writs should not issue, and on 28 September 2012, the government filed its response. Petitioner requests the Court grant oral argument on both petitions.

NOW, THEREFORE, IT IS ORDERED:

1. The petitions filed under Docket Nos. ARMY MISC 20120876 and ARMY MISC 20120877 shall be consolidated and considered by the Court sitting as a whole.
2. Petitioner's motions for oral argument on each petition are granted. In addition to the issues briefed, the Court will also hear argument on the following specified issues:

I.

REGARDLESS OF THE APPLICABILITY OF THE RELIGIOUS FREEDOM RESTORATION ACT, 42 U.S.C. § 2000bb (2006), WHETHER THE MILITARY JUDGE'S ORDER TO PETITIONER TO COMPLY WITH A GROOMING STANDARD AND SUBSEQUENT FORCED SHAVING ORDER EXCEEDED THE

HASAN—ARMY MISC 20120876  
HASAN—ARMY MISC 20120877

MILITARY JUDGE'S AUTHORITY OR WAS OTHERWISE INAPPROPRIATE IN ACCORDANCE WITH ARMY REGULATION 600-20 AND RULE FOR COURTS-MARTIAL 801.

II.

IF THE MILITARY JUDGE'S CONDUCT IN ORDERING THE PETITIONER TO COMPLY WITH A GROOMING STANDARD EXCEEDED HIS AUTHORITY OR WAS OTHERWISE INAPPROPRIATE, WOULD THE CONTEMPT PROCEEDINGS BASED ON APPELLANT'S FAILURE TO COMPLY WITH THE MILITARY JUDGE'S ORDER BE INVALIDATED.

III.

IF THE MILITARY JUDGE'S CONDUCT IN ORDERING PETITIONER TO COMPLY WITH A GROOMING STANDARD OR SUBSEQUENT FORCIBLE SHAVING ORDER EXCEEDED THE MILITARY JUDGE'S AUTHORITY OR WAS OTHERWISE INAPPROPRIATE, SHOULD THE MILITARY JUDGE BE DISQUALIFIED FROM FURTHER PARTICIPATION IN PROCEEDINGS AGAINST THE PETITIONER.

No briefs will be filed on the specified issues.

DATE: 2 October 2012

FOR THE COURT:



MALCOLM H. SQUIRES, JR.  
Clerk of Court

CF:	JALS-DA	JALS-GA
	JALS-CR2	JALS-CR3
	JALS-CRZ	JALS-TJ
	Petitioner	Respondent