

*Maj. Brynnyo*

IN THE UNITED STATES NAVY-MARINE CORPS  
COURT OF CRIMINAL APPEALS

Before Panel No. \_\_\_\_

Frank D. WUTERICH	)	GOVERNMENT MOTION TO
Staff Sergeant (E-6)	)	STAY PROCEEDINGS OR MOTION TO
U.S. Marine Corps,	)	EXPEDITE REVIEW
Petitioner	)	
	)	Case No. 200800183
v.	)	
	)	
David M. JONES	)	
Lieutenant Colonel	)	
U.S. Marine Corps	)	
Military Judge	)	
Respondent	)	
	)	

TO THE HONORABLE, THE JUDGES OF THE UNITED STATES  
NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS

Pursuant to Navy-Marine Corps Court of Criminal Appeals Rules of Practice and Procedure, Rule 23, the Government respectfully petitions this Honorable Court to either expedite resolution of the Petition for Extraordinary Relief, or immediately stay the court-martial proceedings pending appellate litigation of this extraordinary writ. The Government notes that, even as undersigned counsel types, travel arrangements are set for trial to commence on November 2, 2010, and immediate action—either resolution and denial or an immediate stay pending resolution of the underlying request for a stay—is necessary.

Good cause exists for expedited resolution or an immediate stay for the following reasons: (1) trial is currently set to begin on November 2, 2010; (2) approximately 49 witnesses will participate in trial, 17 of whom are military witnesses and the

remainder have required service of subpoenas to secure attendance, and cash advances have been granted to several to secure their attendance; (3) all of the civilian witnesses have arranged for time away from work, child care, and other logistical arrangements to appear and testify in the case; (4) many witnesses are traveling to the situs of trial, Camp Pendleton, from various parts of the United States; (5) approximately 30 witnesses are flying to Camp Pendleton to appear at this general court-martial; (6) one witness, the S-3 alpha for the 7th Marine Regiment, is traveling from Afghanistan to testify at trial, and he will be departing Afghanistan in the very near future to return to CONUS; (7) another witness, due to significant health issues that prevent him from flying, is boarding a train in the very near future to travel from Georgia to Camp Pendleton; finally, (8) a U.S. Army officer is scheduled to return to CONUS from Germany.

In order to save cost, operational impact, and needless travel and strain on units and military and civilian witnesses who will in short order travel to Camp Pendleton for trial that is scheduled to begin on November 2nd, the above constitutes good cause for this Court to either immediately resolve the underlying issues, or alternatively, issue an immediate stay of all trial proceedings, pending this Court's consideration of the underlying petition for extraordinary relief under the All Writs Act and consideration of its jurisdiction to take Petitioner's requested action thereon.

WHEREFORE, the Government requests an immediate stay pending resolution of the jurisdiction to consider, and consideration of, Petitioner's Petition for Extraordinary Relief.



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**Certificate of Filing and Service**

I certify that the original and required number of copies of the foregoing were delivered to the Court on October 26, 2010. I also certify that a copy of the foregoing was delivered on October 26, 2010, to counsel for Petitioner and to Respondent.



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