

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	Misc. Dkt. No. 2011-03
Respondent)	
)	
v.)	
)	ORDER TO SHOW CAUSE
Master Sergeant (E-7))	
KEITH M. HALL,)	
USAF,)	
Petitioner)	Panel No. 2

The petitioner applied to this Court on 10 May 2011, seeking Extraordinary Relief in the Nature of a Writ of Habeas Corpus or, in the alternative, a Writ of Mandamus Ordering Respondents to release the petitioner from the U.S. Naval Consolidated Brig, Miramar, California, no later than 15 May 2011.

On 17 February 2011, contrary to his pleas, the petitioner was convicted of violating Article 134, UCMJ, 10 U.S.C. § 934, by knowingly possessing one or more visual depictions of what appears to be minors engaging in sexually explicit conduct. The military judge sentenced the petitioner to be dishonorably discharged from the service, confinement for 18 months, forfeiture of all pay and allowances and reduction to E-1. On 14 April 2011, the convening authority took action approving the findings and only so much of the sentence as provided for a bad-conduct discharge, confinement for 18 months, forfeiture of all pay and allowances and reduction to E-1.

On 9 May 2011, the petitioner’s trial defense counsel requested in writing that the convening authority modify his action by disapproving the punitive discharge and forfeitures in excess of two-thirds pay per month for four months. The basis for the petitioner’s request was the case of *United States v. Beaty*, 70 M.J. 39 (C.A.A.F. 2011), a recent decision by the United States Court of Appeals for the Armed Forces (CAAF). As per the holding in *Beaty*, the maximum punishment authorized for a conviction of possessing “what appear to be” minors engaged in sexually explicit conduct is four months of confinement and forfeiture of two-thirds pay per month for four months. Consistent with this holding, the petitioner requested to be released from confinement no later than 15 May 2011, his minimum release date. The convening authority denied the petitioner’s request.

On 10 May 2011, the petitioner asked this Court to order his requested relief immediately, without giving an opportunity for the respondent to file a brief. We decline

to do so. Ordinarily, we consider a decision by the CAAF as final, but in this case the petitioner acknowledges that the respondent has filed a request for reconsideration to the CAAF in the *Beaty* case. As a result, we are reluctant to take any action while the matter is pending. Given the fact that the petitioner's minimum release date is rapidly approaching, we urge the respondent to show cause why the petitioner should or should not be granted relief as soon as possible.

Accordingly, pursuant to Rule 20(e)-(f) of the United States Air Force Court of Criminal Appeals Rules of Practice and Procedure (11 October 2010), it is by the Court on this 11th day of May, 2011,

ORDERED:

That the United States shall show cause within **10** days of the date of this order why the petitioner's requested relief should not be granted. A copy of the government's response shall be served on the petitioner, who may file a reply within **7** days after service.

FOR THE COURT

OFFICIAL



A handwritten signature in blue ink, appearing to read "S. Lucas", is written over a horizontal line.

STEVEN LUCAS
Clerk of the Court