

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	Misc. Dkt. No. 2012-05
Respondent)	
)	
v.)	
)	ORDER
Staff Sergeant (E-5))	
RAY A. VAZQUEZ,)	
USAF,)	
Petitioner)	Special Panel

On 19 March 2012, this court set aside the findings and sentence and dismissed the charge against the Petitioner. On 18 April 2012, Respondent filed a Motion for Reconsideration *En Banc* with this court. On 20 April 2012, Petitioner filed a petition for extraordinary relief in the nature of a Writ of Habeas Corpus with this court, requesting that this court order Petitioner’s immediate release from confinement. We denied the Petitioner’s Writ on 26 April 2012. On 27 April 2012, this court denied Respondent’s motion to reconsider *En Banc*, but granted reconsideration of the opinion before the original panel. That same day, this court withdrew its 19 March 2012 opinion and replaced it with a new opinion dated 27 April 2012, again setting aside the findings and sentence and dismissing the charge. On 27 April 2012, petitioner renewed his petition for a Writ of Habeas Corpus. Respondent provided a written response on 30 April 2012.

The decisions of the Court of Appeals for the Armed Forces (CAAF) and the military Courts of Criminal Appeals (CCA) are inchoate. *United States v. Lewis*, 47 M.J. 352, 361 (C.M.A. 1997). Our superior court has recognized that two distinct 30-day periods run concurrently from the date the CCA announces its decision: the 30-day period for reconsideration of the service court’s decision and the 30-day period for The Judge Advocate General to certify the decision to CAAF. During this period, an accused will remain in confinement because the decisions of the military appeals courts are not self-executing. *Id.* at 361.

We agree with Respondent’s position that our withdrawal of the 19 March 2012 opinion and issuance of the 27 April 2012 decision reset the 30-day period for Respondent to either file a reconsideration of the subsequent opinion or for The Judge Advocate General to certify the decision with CAAF.

Therefore, this court's decision is not final and the petitioner has failed to demonstrate that extraordinary relief is warranted.

Accordingly, it is by the Court on this 11th day of May, 2012,

ORDERED:

That Petitioner's Writ of Habeas Corpus is hereby **DENIED**.

FOR THE COURT

OFFICIAL



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

STEVEN LUCAS
Clerk of the Court