

UNITED STATES AIR FORCE COURT OF CRIMINAL APPEALS

UNITED STATES,)	Misc. Dkt. No. 2011-05
Respondent)	
)	
v.)	
)	ORDER
Technical Sergeant (E-6))	
VINCENT L. WILLIAMS,)	
USAF,)	
Petitioner – Pro se)	Special Panel

On 20 May 2011, the petitioner filed a *pro se* petition for extraordinary relief in the nature of a Writ of Habeas Corpus. The petitioner is currently serving a 15-year confinement sentence at the United States Disciplinary Barracks, Ft Leavenworth, Kansas. The petitioner requests that this Court “reverse the Findings and Sentence and dismiss the charges and specifications as a detriment to the government for violating his Constitutional rights, and the government’s violations of the rules in the Manual for Courts-Martial.”

Background

The petitioner was tried at Fort George G. Meade, Maryland, before a general court-martial composed of officer members. Consistent with his pleas, he was convicted of the lesser included offense of carnal knowledge on divers occasions and by exceptions to divers indecent acts with his stepdaughter, CH, who was at least twelve and under the age of sixteen years, in violation of Articles 120 and 134, UCMJ, 10 U.S.C. §§ 920, 934.* On 23 January 2007, the petitioner was sentenced to a dishonorable discharge, 18 years and four months of confinement, forfeiture of all pay and allowances, and reduction to the grade of E-1. The convening authority approved the sentence as adjudged, except for reducing the period of confinement to 15 years in accordance with the terms of a pretrial agreement (PTA).

On appeal, this Court affirmed the approved findings and sentence. *United States v. Williams*, ACM 36996 (A.F. Ct. Crim. App. 15 July 2009) (unpub. op.). Review was

* The appellant was charged with two specifications of rape under Charge I. Upon acceptance of his plea, and consistent with the pretrial agreement, the trial court dismissed the second specification of rape, and dismissed Charge II and its two specifications of sodomy. Also, in accordance with the PTA, the prosecution elected not to proceed on the greater offense of rape in the first specification of Charge I, or on the excepted language of the indecent acts specification of Charge III.

denied by our superior court on 24 June 2010. *United States v. Williams*, 69 M.J. 190 (C.A.A.F. 2010). With review complete under Article 71(c), UCMJ, 10 U.S.C. § 871(c), and the sentence affirmed, the convening authority promulgated General Court-Martial Order Number 96 and ordered the petitioner's dishonorable discharge to be executed on 19 July 2010. The petitioner's case is now final under Article 76, UCMJ, 10 U.S.C. § 876.

Having unsuccessfully exhausted direct judicial review of his case, the petitioner now seeks extraordinary relief from this Court. The petitioner argues that “[a]ccording to Supreme Court case law/controlling precedent and Federal and Military law, the following rights were violated: Fifth Amendment Due Process, Fourteenth Amendment Due Process, and the Sixth Amendment Confrontation Clause.” The petitioner claims these rights were violated as follows: (1) his PTA improperly required that he enter into a stipulation of expected testimony of his accuser, and that the stipulated language improperly supported the greater offense of rape; (2) the government improperly argued the greater offense of rape in sentencing; (3) the petitioner's guilty pleas were improvident because the government breached the PTA by presenting a sentencing argument for the greater offense of rape; (4) petitioner's convictions for carnal knowledge and indecent acts are multiplicitous; and (5) the PTA's inclusion of a requirement for trial by members was a result of unlawful command influence.

Writ of Habeas Corpus

A writ of habeas corpus is “the traditional remedy for unlawful imprisonment.” *Waller v. Swift*, 30 M.J. 139, 142 (C.M.A. 1990) (citations omitted). The All Writs Act authorizes “all courts established by Act of Congress [to] issue all writs necessary or appropriate in aid of their respective jurisdictions...” 28 U.S.C. § 1651(a). The All Writs Act requires two separate determinations: (1) whether the requested writ is in aid of a court's existing statutory jurisdiction; and (2) whether the requested writ is necessary or appropriate. *Denedo v. United States*, 66 M.J. 114, 119 (C.A.A.F. 2008) (citations omitted), *aff'd*, 556 U.S. 904 (2009). We find that our consideration of this petition of a court-martial that is final under Article 76, UCMJ, is properly a matter in aid of our jurisdiction under the All Writs Act. *Denedo*, 66 M.J. at 120-121, 125; *see also Fisher v. Commander, Army Regional Confinement Facility*, 56 M.J. 691, 693 (N.M. Ct. Crim. App. 2001) (citing *Dew v. United States*, 48 M.J. 639, 647 (Army Ct. Crim. App. 1998)).

Although we have jurisdiction to consider this habeas petition, the issuance of a writ is a “drastic remedy that should be used only in truly extraordinary situations” and the petitioner has a very heavy burden to justify with compelling reasons why his requested relief is necessary and appropriate. *Fisher*, 56 M.J. at 692 (citations omitted); *See also Dew*, 48 M.J. at 648 (“Because of their extraordinary nature, writs are issued sparingly, and a petitioner bears an extremely heavy burden to establish a clear and indisputable entitlement to extraordinary relief”) (citations omitted). Deference to

decisions made on direct judicial review and the limited scope of review under the All Writs Act are important considerations on collateral review. *Loving v. United States*, 68 M.J. 1, 4 (C.A.A.F. 2009).

After careful review of the petition, its appendices, and the record, we find that the petition contains nothing more than a rehash of claims the petitioner already raised unsuccessfully on direct judicial review. The petitioner offers nothing new in the way of evidence or argument that has not already been reviewed, considered, and found to be without merit by this Court. We find the petitioner has failed to demonstrate that extraordinary relief is warranted.

Accordingly, it is by the Court on this 26th day of October, 2011,

ORDERED:

That the petitioner's request is hereby **DENIED**.

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