

**UNITED STATES AIR FORCE  
COURT OF CRIMINAL APPEALS**

<b>Rodney B. BOYCE</b>	)	<b>Misc Dkt No. 2018–03</b>
<b>Airman (E-2)</b>	)	
<b>U.S. Air Force</b>	)	
<b><i>Petitioner</i></b>	)	
	)	<b>ORDER</b>
<b>v.</b>	)	
	)	
<b>UNITED STATES</b>	)	
<b><i>Respondent</i></b>	)	<b>Special Panel</b>

Petitioner was convicted by a general court-martial of one specification of rape and two specifications of assault consummated by a battery in violation of Articles 120 and 128, Uniform Code of Military Justice (UCMJ), 10 U.S.C. §§ 920, 928. A panel of officer and enlisted members sentenced Appellant to confinement for four years, reduction to the grade of E-1, and total forfeiture of all pay and allowances. The convening authority approved only the confinement for four years and total forfeitures. This court affirmed the findings and sentence.\* *United States v. Boyce*, No. ACM 38673, 2016 CCA LEXIS 198, at \*37 (A.F. Ct. Crim. App. 24 Mar. 2016) (unpub. op.). However, the United States Court of Appeals for the Armed Forces reversed the findings and sentence due to an appearance of unlawful command influence, and authorized a rehearing. *United States v. Boyce*, 76 M.J. 242, 253 (C.A.A.F. 2017).

On 26 October 2017, the charges were referred for trial by a general court-martial. On 19 December 2017 the Defense moved to dismiss the charges for lack of jurisdiction based on Petitioner’s apparent administrative discharge in March 2017 after completing his term of confinement. The military judge denied the motion, advising the parties of her ruling by email on 2 February 2018 and providing a written ruling on 6 April 2018.

On 20 April 2018, Petitioner filed a Motion to Stay Proceedings and a Petition for Writ of Mandamus requesting this court to dismiss the charges pending against him with prejudice for lack of personal jurisdiction. Petitioner contemporaneously filed a brief in support of his petition. On 27 April 2018, the Government opposed Petitioner’s Motion to Stay Proceedings on the grounds he had failed to establish his clear and indisputable right to the writ of mandamus.

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\* The court granted six days of credit against Petitioner’s term of confinement.

Without prejudice to Petitioner’s ability to challenge personal jurisdiction in the course of any future post-trial or appellate proceedings, we find Appellant has not demonstrated a clear and indisputable right to relief, nor are we satisfied a writ of mandamus is appropriate under the circumstances. *See Cheney v. United States Dist. Court*, 542 U.S. 367, 381 (2004); *United States v. Davis*, 63 M.J. 171, 176 (C.A.A.F. 2006); *Morgan v. Mahoney*, 50 M.J. 633, 634 (A.F. Ct. Crim. App. 1999).

Accordingly it is by the court on this 3rd day of May, 2018,

**ORDERED:**

The Motion to Stay Proceedings dated 20 April 2018 is hereby **DENIED**.  
The Petition for Writ of Mandamus dated 20 April 2018 is hereby **DENIED**.



FOR THE COURT

A handwritten signature in black ink, appearing to read "Laquitta J. Smith".

LAQUITTA J. SMITH

Appellate Paralegal Specialist