

Alternatively, the petitioner asks that this Court to prohibit the trial from going forward until the requested relief has been granted. Finally, the petitioner requests that this Court issue a stay of the proceedings. However, we note that on 18 June 2009, since the filing of the petitioner's request for extraordinary relief, the military judge delayed the court-martial until 31 August 2009.

This Court has authority to issue extraordinary writs when "necessary or appropriate in aid of [our jurisdictional mandate]." *Andrews v. Heupel*, 29 M.J. 743, 746 (A.F.C.M.R. 1989) (quoting 28 U.S.C. § 1651(a)). However, "issuance of an extraordinary writ is a drastic remedy which should only be invoked in those situations which are truly extraordinary. An extraordinary writ is not to be a substitute for an appeal even though hardship may ensue from delay and perhaps an unnecessary trial." *Id.* at 746-47. "To justify extraordinary relief, the petitioner bears the burden of demonstrating that he is entitled to it as a clear and indisputable right." *Aviz v. Carver*, 36 M.J. 1026, 1028 (N.M.C.M.R. 1993).

Having considered the matters submitted, the petitioner has failed to demonstrate that extraordinary relief is warranted.

Accordingly, it is by the Court on this 1st day of July, 2009,

ORDERED:

That Petitioner's Expedited Petition for Extraordinary Relief in the Nature of a Writ of Mandamus, or in the Alternative, Prohibition, and the Motion for Stay of the Proceedings are hereby **DENIED**.

FOR THE COURT

OFFICIAL



STEVEN LUCAS, YA-02, DAF
Clerk of the Court