

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

Misc. Dkt. No. 2025-02

In re DD
Petitioner

Trevon J. WILLIAMS
Airman (E-2), U.S. Air Force
Real Party in Interest

Petition for Extraordinary Relief in the Nature of a Writ of Mandamus
Decided 21 March 2025

Military Judge: Matthew P. Stoffel (arraignment, motions hearing); Nathan D. Royer.

SpCM convened at: Kirtland Air Force Base, New Mexico.

For Petitioner: Captain Alyssa J. Kozma, USAF; Captain Joyclin N. Webster, USAF; Devon A. R. Wells, Esquire.¹

Before RICHARDSON, MASON, and PERCLE, *Appellate Military Judges.*

Judge MASON delivered the opinion of the court, in which Senior Judge RICHARDSON and Judge PERCLE joined.

**This is an unpublished opinion and, as such, does not serve as
precedent under AFCCA Rule of Practice and Procedure 30.4.**

¹ There were no other parties to this petition because no briefs were to be filed “unless ordered by the court,” and the court did not order any briefs to be filed.

MASON, Judge:

On 5 March 2025, pursuant to Rule 19 of the Joint Rules of Appellate Procedure for Courts of Criminal Appeals, Petitioner submitted to this court a Petition for Extraordinary Relief in the nature of a Writ of Mandamus and a Motion to Stay Order in the pending special court-martial of *United States v. Airman Trevon J. Williams* (the Real Party in Interest). The Real Party in Interest is charged with two specifications of sexual assault in violation of Article 120, Uniform Code of Military Justice (UCMJ), 10 U.S.C. § 920, and one specification of assault consummated by a battery in violation of Article 128, UCMJ, 10 U.S.C. § 928.² Petitioner, DD, is the named victim in all specifications. Petitioner requests we issue a writ immediately staying execution and enforcement of a subpoena issued pursuant to the military judge's order to produce and discover certain non-privileged mental health information from two Veterans' Affairs (VA) clinics. On 17 March 2025, Petitioner filed a Motion for Leave of Court to Supplement Petition for Extraordinary Relief and Record. We grant Petitioner's Motion for Leave of Court to Supplement. We deny the stay and find issuance of a writ is not appropriate.

Notably, this is not the first time Petitioner has requested that we issue such a writ to prohibit production and discovery of the same records. On 2 October 2024, Petitioner submitted to this court a petition for extraordinary relief in the form of a Writ of Mandamus and a Motion to Stay Order in the same pending special court-martial.³ On 31 October 2024, we denied Petitioner's request finding that issuance of the writ was not appropriate. *In re DD*, Misc. Dkt. No. 2024-11, 2024 CCA LEXIS 461 (A.F. Ct. Crim. App. 31 Oct. 2024) (unpub. op.). That opinion set forth the relevant background, procedural history, and applicable law and we adopt those here.

On 20 December 2024, the President amended Mil. R. Evid. 513(a) to read as follows:

General Rule. A patient has the privilege to refuse to disclose and to prevent any other person from disclosing a confidential communication, *including records of such communications*, made between the patient and a psychotherapist or an assistant to the psychotherapist, in a case arising under the Uniform Code of Military Justice, if such communication was

² All references to the punitive articles of the UCMJ are to the *Manual for Courts-Martial, United States* (2019 ed.) (2019 *MCM*). All other references to the UCMJ and Military Rules of Evidence (Mil. R. Evid.) are to the *Manual for Courts-Martial, United States* (2024 ed.).

³ On 7 October 2024, Petitioner filed a Motion for Leave of Court to Supplement Petition under Article 6b, UCMJ, and Record. We granted this motion on 16 October 2024.

made for the purpose of diagnosis or treatment of the patient's mental or emotional condition.

See Exec. Order No. 14,130. 89 Fed. Reg. 105343, 105364 (20 Dec. 2024) (emphasis added) (the italicized language was added by the President).

Based on this amendment, Petitioner filed a supplemental filing to his Motion to Quash. The newly detailed military judge issued a ruling on 23 February 2025 denying this Motion to Quash. The military judge directed the Government and the VA to comply with the court order. Apparently, despite the military judge's court order and the denial of the aforementioned writ, the VA still has not produced or disclosed the compelled records.

Petitioner, with this second petition for a writ, renews his prior arguments, and furthermore argues that the added language, "including records of such communications," creates an expanded privilege that protects against the release of the records ordered produced and disclosed by the military judge. For the reasons we articulated in our 31 October 2024 opinion, we again reject Petitioner's arguments.

Regarding the amended Rule, we find that the added language merely enumerated the unremarkable clarification that the privilege prohibits the disclosure whether that be through testimony, statements, or the production of records. This additional language did not change the nature or definition of confidential communications. It simply addressed the form in which that communication may be retransmitted. Contrary to Petitioner's assertions, this additional language neither expanded nor contracted the substance of the confidential communications privilege. Thus, Petitioner's position is unchanged by this amended language.

Petitioner has again failed to demonstrate the right to issuance of the writ he seeks is clear and indisputable, and he has therefore failed to show the appropriateness of the requested relief. *Hasan v. Gross*, 71 M.J. 416, 418 (C.A.A.F. 2012) (per curiam) (citing *Cheney v. United States*, 542 U.S. 367, 380–81 (2004)).

CONCLUSION

Petitioner's Motion for Leave of Court to Supplement Petition for Extraordinary Relief and Record is **GRANTED**.

Petitioner's Petition for Extraordinary Relief in the form of a Writ of Mandamus and Motion to Stay, dated 5 March 2025, are **DENIED**.⁴



FOR THE COURT

Carol K. Joyce

CAROL K. JOYCE
Clerk of the Court

⁴ While Petitioner did not style it as a motion, he also requested oral argument. We deny the request for oral argument.