

**CORRECTED VERSION IN ACCORDANCE WITH THIS COURT'S ORDER ISSUED
16 DECEMBER 2004**

IN THE UNITED STATES COAST GUARD
COURT OF CRIMINAL APPEALS

Christopher M. UPHAM,
Lieutenant (O-3),
U.S. Coast Guard,
Petitioner,

v.

John W. ROLPH,
Military Judge,
Captain (O-6), JAGC,
U.S. Navy,
Respondent

8 December 2004

PETITION FOR EXTRAORDINARY
RELIEF IN THE NATURE OF A
WRIT OF MANDAMUS; APPLICATION
FOR AN EMERGENCY STAY OF
PROCEEDINGS; AND REQUEST FOR
APPOINTMENT OF APPELLATE DEFENSE
COUNSEL FILED WITH THIS COURT ON 8
DECEMBER 2004

MISC. DOCKET NO. 001-05

ORDER – PANEL TEN

Petitioner, who is undergoing trial by a general court-martial composed of members, has filed a petition for extraordinary relief styled as a request for relief in the nature of a writ of mandamus. He seeks an emergency order staying proceedings in his trial until this Court rules on the substantive issues raised in his petition for a writ of mandamus requiring the military judge to properly instruct the members with respect to the offense of assault by means likely to result in death or grievous bodily injury and to allow Petitioner to withdraw from a stipulation of fact. Petitioner also moves this Court to have appellate counsel appointed to represent him. In a separate filing, Petitioner moves this Court to attach documents to his petition for extraordinary relief that constitute instructions to the members issued by the military judge. It is, by the Court, this 8th day of December 2004,

ORDERED:

That the Motion to Attach Documents is hereby granted; that the application for an emergency stay of proceedings, and the request to have appellate counsel appointed are hereby

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denied, and the Petition for Extraordinary Relief is dismissed without prejudice to Petitioner's right to raise the issues therein in the course of normal review, under the Uniform Code of Military Justice.



For the Court,

Roy Shannon Jr.
Clerk of the Court

Copy: Chief, Office of Military Justice
Appellate Government Counsel
Appellate Defense Counsel