

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

MILITARY PRISONER
PETER ROUKIS — PETITIONER
(Your Name)

VS.

UNITED STATES ARMY — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

PETER ROUKIS

(Your Name)

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(Address)

TUCSON, ARIZONA 85734

(City, State, Zip Code)

N/A

(Phone Number)

QUESTION(S) PRESENTED

- I DO MILITARY APPELLATE COURTS HAVE JURISDICTION TO REVIEW COURT-MARTIAL BY MILITARY PRISONER SEEKING POST CONVICTION RELIEF?
- II IS A FEDERAL DISTRICT COURT PROCEDURALLY BARRED FROM REVIEWING CHALLENGES TO COURT-MARTIAL BY MILITARY PRISONER SEEKING HABEAS CORPUS RELIEF?
- III DOES THE FEDERAL JUDICIARY OR THE MILITARY JUDICIARY HAVE JURISDICTION TO REVIEW POST CONVICTION CHALLENGES TO COURT-MARTIAL BY MILITARY PRISONER?

LIST OF PARTIES

- All parties appear in the caption of the case on the cover page.
- [] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix D to the petition and is FOR THE ARMED FORCES

reported at USCA DKT NO 18-0005/AR; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix C to the petition and is

reported at ROUXIS V US ARMY, 2014 US DIST LEXIS 160690; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was OCTOBER 19, 2007 *FOR THE ARMED FORCES*.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § ~~1254(1)~~ **1259**.

For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

I UNITED STATES CONSTITUTION

ARTICLE I, SECTION 8, CLAUSE 14

CONGRESS HAS POWER ' TO MAKE RULES FOR THE GOVERNMENT AND REGULATION OF THE LAND AND NAVAL FORCES.'

II UNITED STATES CONSTITUTION

ARTICLE I, SECTION 9, CLAUSE 2

PRIVILEGE OF WRIT OF HABEAS CORPUS SHALL NOT BE PROHIBITED / SUSPENDED.

III ALL WRITS ACT

28 U.S.C. § 1651 (A)

IV HABEAS CORPUS

28 U.S.C. § 2241

STATEMENT OF THE CASE

IN APRIL 1998, AT FORT POLK, LOUISIANA, I WAS TRIED AND CONVICTED BY CAPITAL COURTMARTIAL FOR THE APRIL 1997 MURDER OF MY WIFE, JENNIFER ROWKIS.

WITH NONUNANIMOUS FINDINGS BY THE PANEL MEMBERS I RECEIVED A MANDATORY MINIMUM LIFE SENTENCE. SEE APPENDIX A.

AFTER SERVING A YEAR IN PRETRIAL CONFINEMENT I WAS ASSIGNED TO THE UNITED STATES DISCIPLINARY BARRACKS, FORT LEAVENWORTH, KANSAS UNTIL SEPTEMBER 2006 WHEN I WAS TRANSFERRED AND REASSIGNED TO THE FEDERAL BUREAU OF PRISONS.

I HAVE ATTEMPTED IN GOOD FAITH TO CHALLENGE MY COURTMARTIAL RAISING ISSUES THAT MY APPELLATE DEFENSE COUNSEL FAILED TO RAISE ON DIRECT APPEAL RESULTING IN INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL.

I PETITIONED FOR POST CONVICTION RELIEF BEFORE THE MILITARY JUDICIARY ATTEMPTING TO EXHAUST MY REMEDIES THRU THE MILITARY APPELLATE COURTS. SEE APPENDIX B.

I THEN PETITIONED FOR WRIT OF HABEAS CORPUS BEFORE THE FEDERAL JUDICIARY. SEE APPENDIX C.

AFTER THE DISTRICT COURT RULED THAT I WAS PROCEDURALLY BARRED I AGAIN ATTEMPTED FOR POST CONVICTION RELIEF BEFORE THE MILITARY JUDICIARY WHICH WAS DISMISSED FOR LACK OF JURISDICTION. SEE APPENDIX D.

THE ISSUES I AM RAISING CHALLENGING MY COURTMARTIAL ARE VALID ISSUES OF CONSTITUTIONAL PROPORTION. SEE APPENDIX E.

REASONS FOR GRANTING THE PETITION

CONGRESS HAS POWER BY ARTICLE I, SECTION 8, CLAUSE 14 OF THE CONSTITUTION, 'TO MAKE RULES FOR THE GOVERNMENT AND REGULATION OF THE LAND AND NAVAL FORCES.'

MILITARY LAW IS A JURISPRUDENCE WHICH EXISTS SEPERATE AND APART FROM THE LAW WHICH GOVERNS IN THE FEDERAL JUDICIAL ESTABLISHMENT.

ALTHOUGH MILITARY COURTS HAVE THE SAME RESPONSIBILITIES AS DO THE FEDERAL COURTS TO PROTECT A PERSON FROM A VIOLATION OF BASIC CONSTITUTIONAL RIGHTS.

DUE PROCESS OF LAW FOR MILITARY PERSONNEL IS WHAT CONGRESS HAS PROVIDED IN THE MILITARY HIERARCHY IN COURTS ESTABLISHED ACCORDING TO LAW.

IF ERROR IS MADE BY THE MILITARY COURTS, TO WHICH CONGRESS HAS COMMITTED THE PROTECTION OF THE RIGHTS OF MILITARY PERSONNEL, THAT ERROR SHOULD BE CORRECTED IN THE MILITARY HIERARCHY OF COURTS PROVIDED BY CONGRESS.

ALTHOUGH COURTMARTIALS ARE SUBJECT TO COLLATERAL REVIEW WITHIN THE MILITARY JUSTICE SYSTEM, MILITARY COURTS ARE ARTICLE I COURTS WHOSE JURISDICTION IS LIMITED. SEE *LOVING V UNITED STATES*, 62 MJ 235, 246, (CAAF 2005) *UNITED STATES V DENEBO*, 556 US, 129 SC 2213, 173 LED 2D 1235 (2009) SEE ALSO *CLINTON V GOLDSMITH*, 520 US 529 (1999) AND 28 U.S.C. § 1651(A).

THEREFORE, THE RESULTS OF COURTMARTIAL ARE ALSO SUBJECT TO COLLATERAL REVIEW BY COURTS OUTSIDE THE MILITARY JUSTICE SYSTEM. SEE *BURNS V WILSON*, 346 US 137, 73 SCT 1045, 97 LED 1508 (1953) AND *SCHLESINGER V COUNCILMAN*, 420 US 738, 751, 95 SCT 1300, 43 LED 2D 591 (1975) SEE ALSO 28 U.S.C. § 2241.

HOWEVER, IF THE MILITARY AGENCY HAS FAIRLY AND CONSCIENTIOUSLY APPLIED THE STANDARDS OF DUE PROCESS FORMULATED BY THIS COURT, A REHEARING OF THE SAME FACTS BY A FEDERAL COURT WOULD NOT ADVANCE THE CAUSE OF JUSTICE.

BUT WHERE THE MILITARY REVIEWING AGENCY HAS NOT DONE THAT, A FEDERAL COURT SHOULD ENTERTAIN THE PETITION FOR HABEAS CORPUS.

THE DOCTRINE OF EXHAUSTION OF REMEDIES IS ALSO INTERTWINED WITH THE COLLATERAL REVIEW OF MILITARY CONVICTIONS.

THE DOCTRINE REQUIRES THAT OBJECTIONS TO COURT-MARTIAL BE RAISED IN THE MILITARY TRIAL AND ANY AVAILABLE APPELLATE REMEDIES, INCLUDING EXTRAORDINARY PROCEEDINGS, BEFORE COLLATERAL RELIEF IS SOUGHT IN FEDERAL COURT. SEE *FAY V NOIA*, 372 US 391 (1963) AND *EX PARTE ROYALL*, 117 US 241 (1886).

THE QUESTION WHETHER THE MILITARY TRIBUNAL HAS EXCEEDED THE POWERS GRANTED BY CONGRESS MAY BE TESTED BY HABEAS CORPUS.

THE MANDATES THAT NO PERSON BE DEPRIVED OF LIFE OR LIBERTY WITHOUT DUE PROCESS OF LAW ARE CONSTITUTIONAL REQUIREMENTS BINDING ON MILITARY TRIBUNALS.

A SOLDIER CONVICTED AND DENIED DUE PROCESS OF LAW SHOULD HAVE RELIEF BY WAY OF HABEAS CORPUS.

OUR FOUNDING FATHER'S WISDOM TO PROTECT PERSONAL LIBERTY; AND SO THEY PROHIBITED SUSPENSION OF THE WRIT OF HABEAS CORPUS - THE TRADITIONAL REMEDY

FOR UNLAWFUL IMPRISONMENT. SEE US CONST ARTICLE I,
SECTION 9, CLAUSE 2, EX PARTE MILLIGAN, 71 US (4 WALL)
2, 18 L ED 281 (1866) AND DUNCAN V KAHANAMOKU, 327
US 304, 66 S CT 606, 90 L ED 688 (1946).

IN NOYD V MORN, THIS COURT MADE THIS COMMENT ABOUT
A PENDING PETITION FOR HABEAS CORPUS:

'WHILE IT IS TRUE THAT (CAPTAIN NOYD) WAS ONLY
TWO DAYS YET TO SERVE ON HIS SENTENCE, HE
SHOULD NOT BE REQUIRED TO SURRENDER HIS FREEDOM
FOR EVEN THIS SHORT TIME UNLESS IT IS FOUND
THAT THE LAW SO REQUIRES.' 79 US 699, 89 S CT 1885.

THE RIGHT TO INVOKE HABEAS CORPUS TO SECURE
FREEDOM IS NOT TO BE CONFINED.

IF IMPRISONMENT IS THE RESULT OF A DENIAL OF
DUE PROCESS, IT MAY BE CHALLENGED NO MATTER
UNDER WHAT AUTHORITY OF GOVERNMENT IT WAS
BROUGHT ABOUT.

THEREFORE, I RESPECTFULLY REQUEST THAT A WRIT
ISSUE REMANDING MY CASE BEFORE THE PROPER
JUDICIAL SYSTEM FOR ADJUDICATION.

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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: DECEMBER 18, 2017