

No.

In The  
Supreme Court of the United States

In Re:

Peter Roukis

Petition For Extraordinary Relief  
*FOR WRIT OF MANDAMUS TO THE  
UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES*

Peter Roukis

17364-045

USP Tucson

P.O. Box 24550

Tucson, AZ 85734

Relief Sought

Petitioner respectfully requests that a writ issue to reassign petitioner to further confinement at the United States Disciplinary Barracks, Fort Leavenworth, Kansas.

QUESTION(S) PRESENTED

Are discharged military prisoners confined within the Bureau  
Of Prisons subject to the Uniform Code of Military Justice (UCMJ)?

Does Article 12, UCMJ, apply to military prisoners within Bureau  
Of Prisons Custody?

Does the United States Army or the Bureau Of Prisons have legal  
custody over military prisoners within custody of BOP?

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## **JURISDICTION**

The jurisdiction of this court is invoked under 28 U.S.C § 1651(A).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C. § 1651(A)

Article 12, Uniform Code of Military Justice (UCMJ)

Article 58, Uniform Code of Military Justice (UCMJ)

Due Process of Law

Equal Protection of the Law

## STATEMENT OF THE CASE

In April 1998, at Fort Polk, Louisiana, I was tried and convicted by General Court-Martial for the April 1997 murder of my wife, Jennifer Roukis.

I received a Life sentence with the possibility of parole and I have been confined for over 21 years.

My convening authority assigned me to confinement within the United States Disciplinary Barracks (USDB), Fort Leavenworth, Kansas, where I remained until September 2006.

In September 2006, I was reassigned and transferred to confinement within the Federal Bureau Of Prisons (FBOP).

Since October 2006 I have tried in good faith to be reassigned to confinement within the USDB, Ft. Leavenworth, KS. Accordingly, I have exhausted all available administrative and judicial remedies through both the military and federal systems. See Appendix A.

## REASONS FOR GRANTING THE PETITION

Beyond separate military courts, Congress also created a military penal system distinct from the Bureau Of Prisons which houses offenders convicted and sentenced by Federal District Courts. See 10 U.S.C § 951(A).

Because of my military prisoner status, the BOP houses me under a May 1994 "Memorandum of Agreement" between the Army and BOP regarding "Transfer of Military Prisoners to the FBOP." Under this agreement, the BOP promised to house up to 500 military prisoners for the Army's convenience.

The BOP calls such prisoners "Contractual Boarder's."

Although they become "subject to all BOP administrative and ... institutional policies and procedures," the memorandum specifically states that military prisoners within BOP facilities remain "in permanent custody of the United States Army." See United States v. Joshua, 607 F3D 379 (2010) and Lebron v. Rumsfeld, 670 F3D 540 (2012).

By being assigned within BOP custody I am no longer entitled to personally appear before an Army Clemency and Parole Board Hearing to request clemency, reenlistment, or parole. Instead, my parole consideration is being conducted by the United States Parole Commission which pursuant to the April 2007 parole hearing conducted by the commission, I was ordered to continue a 15 year reconsideration hearing in April 2022.

The parole commission has ordered my to serve **15** years until

I will be provided another denovo parole hearing. By contrast, if I was still assigned to military custody I would receive a denovo parole hearing annually before the Army Clemency and Parole Board. A parole hearing set 15 years apart from an annual hearing is a significant difference. See King v. Federal Bureau Of Prisons, 406 FSUPP 36.

Under the provisions of Article 12, UCMJ military prisoners may not be confined in immediate association with enemy combatants or foreign nationals. See United States v. McPherson, 73 MJ 397 (2014), and United States v. Wilson, 73 MJ 404 (2014).

In McPherson, the Court of Appeals for the Armed Forces stated that Article 12 applies without geographic limitation and that military prisoners must first exhaust administrative remedies before seeking judicial relief.

The CAAF further rejected the governments argument that Article 12 conflicted with Article 58, which requires that confined military prisoners be treated equally to confined civilians in the same facility.

A military prisoner serving confinement under a sentence adjudged by court-martial remains subject to jurisdiction under the UCMJ. Although my enlistment has expired, my status as a person subject to the UCMJ continues by virtue of Article 2(A)(7), UCMJ. See Kahn v. Anderson, 255 US1 (1921), Carter v. McClaugury, 183 US 365 (1902), and United States v. Harry, 25 MJ 513 (1987).

Jurisdiction over a military prisoner attaches before issuance of a discharge certificate and continues through sentence and

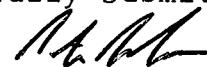
punishment. See Fisher v. Commander, 56 MJ 691 (2001), and see also Coleman v. Tennessee, 97 US 509 (1878).

Petitioner's transfer has been a jurisdictional transfer that violates basic constitutional rights as I am subject to both jurisdictions without the benefit of my rights under our constitution. Receiving Due Process and Equal Protection hinges solely upon the Army's choice to arbitrarily transfer certain military prisoners to the Bureau Of Prisons for administrative convenience rather than for any apparent penalogical purpose. This does not reflect a Uniform Code of Military Justice.

## CONCLUSION

The Petition for Extraordinary Relief should be GRANTED.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Mark".

October 28, 2018