

No. 25-_____

**IN THE
SUPREME COURT of the UNITED STATES**

DAVID J. RUDOMETKIN
Petitioner,

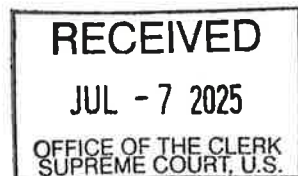
v.

UNITED STATES
Respondent.

Application to Extend Time to Submit a Writ of
Certiorari to
the United States Court of Appeals for the Armed
Forces

DAVID J. RUDOMETKIN
Involuntarily Proceeding Pro Se
United States Disciplinary Barracks
1300 N. Warehouse Road
Fort Leavenworth, KS 66027

June 25, 2025



RELATED PROCEEDINGS

United States v. Rudometkin, Army No. 20180058, CCA LEXIS 596, 2021 (Nov. 9, 2021, ACCA)

United States v. Rudometkin, No. 22-0205/AR, Court of Appeals for the Armed Forces, 82 M.J. 396 (CAAF, Aug. 15, 2022)

In Re: Rudometkin, 2025 CAAF LEXIS 199, 2025 LX 97515_M.J._2025, WL 1105718, (CAAF, Mar. 14, 2025). No. 25-0090/AR (writ of habeas corpus denied)

In Re: Rudometkin, 2025 CAAF LEXIS 203, 2025 LX 13419, (CAAF, Mar. 14, 2025). No. 25-0103/AR (writ of prohibition denied)

In Re: Rudometkin, 2025 CAAF LEXIS 274, 2025 LX 86679 (CAAF, Apr. 11, 2025). No. 25-0093/AR & No. 25-0103/AR (enlargement of time to submit petitions for reconsideration and petitions or fact finding pursuant to Rule 30A concerning jurisdiction, denied)

In Re: Rudometkin, 2025 CAAF LEXIS 359, 2025 LX 54912 (CAAF, May 12, 2025). No. 25-0093/AR (Petition for a writ of mandamus and reconsideration, denied)

In Re: Rudometkin, 2025 CAAF LEXIS 372, 2025 LX 13400 (CAAF, May 12, 2025). No. 25-0103/AR (Petition for reconsideration for a writ of habeas corpus and prohibition, denied)

Rudometkin v. United States, 2025 U.S. LEXIS 1775, 2025 LX 94085_S.CT._2025 WL 1287123, May 5, 2025, No. 24-6952 (Petition for writ of certiorari denied)

Rudometkin v. Driscoll, Civ. A. No 21-1695 (D.D.C.), 2024 U.S. App. LEXIS 32338, No. 23-5088, Dec. 19, 2024 (D.C. Cir. 2024),

Rudometkin v. Department of Defense et. al, Civ. A. No. 20-2687-TSC (D.D.C.), Case No. 23-5180 (D.C. Cir.)

Rudometkin v. Wormuth, 2025 U.S. Dist. LEXIS 53062, Mar 21, 2025, Civ A. No. 22-01968-TSC (D.D.C.)

APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully submits this application (if the Chief Judge denies Petitioner's application to Stay) under Rule 13, to the Chief Judge (see Rule 22), to extend by 60-days, the 90-day timeline to file a petition for writ of certiorari concerning orders entered by the Court of Appeals for the Armed Forces (CAAF) on May 12, 2025 denying¹ Petitioner Reconsideration under CAAF Rule 31 *Petition for Reconsideration* for Petitions of Extraordinary Relief in the form of: writ of habeas corpus; writ of Prohibition; and writ of mandamus (USCAAF Dkt. No. 25-0093/AR and No. 25-0103/AR). These Petitions requested relief on the basis military courts did not have jurisdiction to issue any order or judgment relating to Petitioner because of multiple jurisdictional issues rendering a court-martial as a legal nullity. The time limit to file a writ of certiorari is within 90 days of denial of Reconsideration (which is the military court equivalent of Fed. R. App. P. Rule 40 *Petition for Panel Rehearing*) or August 11, 2025. Petitioner requests for good cause an extension of time for 60-days, up to and including October 11, 2025 to submit a petition for a writ of certiorari (if necessary).

Petitioner also requests these cases USCAAF Dkt. No. 25-0093/AR and No. 25-0103/AR consolidated under Rule 12.4 for the purpose of the application to extend time to submit a writ of certiorari. Otherwise, if the Chief Judge grants Petitioner's application to Stay, this application is moot.

¹ See *United States v. McGriff*, 78 M.J. 487 (CAAF, 2019) "we note that denial of a petition, although it allows the decision below to stand, does not suggest that we either agree or disagree with the merits of a lower court's resolution of the case. Cf. *Teague v. Lane*, 489 U.S. 288, 296, 109 S. Ct. 1060, 103 L. Ed. 2d 334 (1989) (recognizing that denial of certiorari by the Supreme Court carries no precedential value as it is not an expression of the Supreme Court's opinion upon the merits of the case). Thus, denial of this petition carries no support whatsoever for concluding that the lower court either correctly or incorrectly interpreted the scope and application of (C.A.A.F. 2006), or *United States v. Brennan*, 58 M.J. 351, 355 (CA.A.F. 2003). Cf. *Maryland v. Baltimore Radio Show*, 338 U.S. 912, 919, 70 S. Ct. 252, 94 L. Ed. 562 (1950) (emphasizing that denial of certiorari reflects no judgment on the opinion below)."

DECISIONS BELOW

The judgment of the U.S. Court of Appeals for the District of Columbia Circuit, that stated “Appellant David J. Rudometkin *was* a major the U.S. Army” is *Rudometkin v. Wormuth*, Civ. A. No 21-1695 (D.D.C.), 2024 U.S. App. LEXIS 32338, No. 23-5088, Dec. 19, 2024 (D.C. Cir. 2024) and is reprinted at Appendix 1a.

The opinion of the Court of Appeals for the Armed Forces (CAAF) is reported at 82 M.J. 396 (C.A.A.F., 2022) and is reprinted at Appendix 135; the decision of the Army Court of Criminal Appeals is reported at CCA LEXIS 596, 2021 (Nov. 9, 2021, ACCA) and is reprinted at Appendix 146; the order denying a Petition for Writ of Habeas Corpus is reported at *In Re: Rudometkin*, 2025 CAAF LEXIS 199, 2025 LX 97515_M.J_2025, WL 1105718, (CAAF, Mar. 14, 2025) No. 25-0093/AR and is reprinted at Appendix 130; the order denying a Petition for a Writ of Prohibition is reported at *In Re: Rudometkin*, 2025 CAAF LEXIS 203, 2025 LX 13419, (CAAF, Mar. 14, 2025). No. 25-0103 and is reprinted at Appendix 131; the order denying a Petition for enlargement of time to submit a Petition for Reconsideration and a Petition for fact-finding as per Rule 30A concerning jurisdiction is reported at *In Re: Rudometkin*, 2025 CAAF LEXIS 274, 2025 LX 86679 (CAAF, Apr. 11, 2025) No. 25-0103/AR and is reprinted at Appendix 132; the order denying a Petition for Reconsideration for Petitions of a writ of habeas corpus and prohibition is reported at *In Re: Rudometkin*, 2025 CAAF LEXIS 374, 2025 LX 80830 (CAAF, May 12, 2025). No. 25-0093/AR and is reprinted at Appendix 133; the order denying a Petition for a writ of mandamus and reconsideration is reported at *In Re: Rudometkin*, 2025 CAAF LEXIS 372, 2025 LX 13400 (CAAF, May 12, 2025). No. 25-0103/AR and is reprinted at Appendix 134.

JURISDICTION

The jurisdiction of this Court is evoked pursuant to 28 U.S.C. § 1259(4) (effective December 22, 2024) for multiple *Involuntary Pro Se* Petitions for Extraordinarily relief submitted to the CAAF: Petition for writ of Habeas Corpus, Petition for writ of Prohibition; Petition for Fact Finding pursuant to CAAF Rule 30A concerning jurisdiction, and Petition for writ of Mandamus; where the CAAF entered orders denying these Petitions on March 14, 2025 and April 6, 2025 and later denied a Petition for Reconsideration of these Petitions on May 12, 2025 (See Appendix 130-134).

**REASONS WHY THE APPLICATION TO EXTEND TIME
SUBMIT A WRIT OF CERTIORARI SHOULD BE
GRANTED**

This case arose out the “Government of the land and naval Forces,” but Petitioner asserts, in actuality, it never really began. There is a long and convoluted procedural history lasting over 9-years, that is too long to recount here, as this brief is to support an application to extend time to submit a petition for a writ of certiorari up to and including October 12, 2025. Or alternatively, if this Court grant’s Petitioner’s application to Stay the execution of the CAAF’s orders pending a decision from a related case *Rudometkin v. Wormuth*, Civ. A. No 21-1695 (D.D.C.), it will moot this request for an extension of time.

The application for an extension of time is to allow Petitioner to formulate and file a petition for a writ of certiorari, because Petitioner is involuntarily proceeding *pro se* in this Court because the Army Judge Advocate General (TJAG) and the CAAF refuse to provide Petitioner appellate defense counsel since December 17, 2024, in violation of 10 U.S.C. § 870². See Petitioner’s multiple requests to TJAG for appellate defense counsel to assist Petitioner in preparing legal briefs, such as preparing a writ of certiorari (Appendix 115-129). Also, granting an extension of time, may coincide with pending decision in a related civil case, *Rudometkin v. Wormuth*, Civ. A. No 21-1695 (D.D.C.) and moot the need to submit a writ of certiorari.

Presumably, TJAG and the CAAF are refusing to assign appellate defense counsel as per 10 U.S.C. § 870 because they are emboldened by this Court’s denial of a writ of certiorari (see, *Rudometkin v. United States*, 2025 U.S. LEXIS 1775, 2025 LX 94085_S.CT._2025 WL 1287123, May 5, 2025, No. 24-6952) submitted by Petitioner *Pro Se* to review an order by the CAAF denying Petitioner cost-free military appellate defense counsel when he did not knowingly, intelligently, or by conduct, waive

² Article 70 UCMJ, 10 U.S.C. § 870(a)-(c), “[TJAG], **shall** detail his office one or more commissioned officers as...appellate defense counsel....Appellate defense counsel **shall** represent the accused before the Court of Criminal Appeals the Court of Appeals for the Armed Forces, or the Supreme Court — (1) when requested by the accused.” *Id.*

military appellate defense counsel. This order also stated if Petitioner wanted legal representation, that he could pay for it himself – although the CAAF obviously knew Petitioner is indigent and cannot afford to hire appellate defense counsel.

The denial of Petitioner's writ of certiorari to review the constitutionality of the CAAF's order denying Petitioner appellate defense counsel, sends a clear signal to TJAG and the CAAF, 10 U.S.C. § 870 is not constitutionally required by the due process clause of the 5th Amendment, nor the 6th Amendment, and that an accused not having waived assignment of appellate defense counsel, can go through the military appellate process (10 U.S.C. §§ 866, 867, 867a) utterly unrepresented — such as occurred when the CAAF granted a motion for the withdrawal of military appellate defense counsel (see CAAF's order reported at 2024 CAAF LEXIS 818 __M.J.__ 2024 WL 5342425, Dec. 17, 2024) although no legal briefs were submitted by military appellate counsel to the CAAF to support a petition for a grant of review pursuant to 10 U.S.C. § 867(a)(3). Also, military appellate defense counsel did not assist Petitioner in filing an extraordinary writ concerning Petitioner's lack of military status despite of overwhelming evidence in the administrative record showing Petitioner's legal status changed when his commission as a United States officer (10 U.S.C. § 531) terminated by operation of 10 U.S.C. § 632(a)(1) which also ended UCMJ jurisdiction six-months before court-martial charges were preferred. Counsel erroneously insisted on filing a legal brief on this matter under Article 67(a)(3) UCMJ. Petitioner asserted this is error because a court-martial was never legally constituted, nor legally reviewed under Article 66(c) by the Courts of Criminal Appeals.

After military appellate defense counsel withdrew due to a conflict of interest, they were not replaced (in violation of the CAAF's Rule 16³) although Petitioner requested re-appointment of appellate defense counsel under Article 70, UCMJ (see Appx

³ Rule 16(b). *Entry of Appearance and Withdrawal by Counsel*. Leave to withdraw by any counsel who has entered an appearance under subsection (a) must be requested by the motion in accordance with Rule 30. A motion by an appellate defense counsel must indicate the reasons for the withdrawal and the provisions which have been made for the continued representation of the accused. A copy of the motion

115-129). Petitioner was then faced with the prospect of an absolute timeline to submit any briefs to the CAAF without assigned counsel — this is when and the reason why numerous *Pro Se* Petitions for Extraordinary Relief (Petition for fact finding pursuant to CAAF Rule 30A concerning jurisdiction along with writs of habeas corpus, prohibition, mandamus) were submitted challenging the CAAF does not have jurisdiction to issue orders on the basis it lost jurisdiction when it issued an order on December 17, 2024 unconstitutionally depriving Petitioner the right to be represented by counsel as per 10 U.S.C. § 870 (Article 70, UCMJ) and Petitioner did not waive the 6th Amendment right to cost-free appellate defense counsel. Also, Petitioner presented in the Petitions for Extraordinary relief, the military courts never had jurisdiction to issue judgments or orders because the non-discretionary operation of law 10 U.S.C. § 632(a)(1) as reflected in the administrative record, indisputably shows Petitioner ceased holding a legal title as a United States officer as of January 31, 2016 and UCMJ jurisdiction was lost on this date, long before a court-martial indictment (a DD Form 458) was illegally served to Petitioner on July 22, 2016.

Alternatively, there are legally valid reasons not involving violations of 10 U.S.C. § 870 and the 5th and 6th Amendments, that explains why TJAG refuses to assign appellate defense counsel that Petitioner never waived, and the CAAF allowed military appellate defense counsel to withdraw in violation of its Rule 16 although no, “provisions which have been made for the continued representation of the accused,” is because *there is merit* to Petitioner’s legal claim he ceased holding a legal title as United States officer since January 31, 2016, pursuant to 10 U.S.C. § 632(a)(1). The UCMJ does not apply to former United States officers who long ago discharged from commissioned service, see *Toth v. Quarles*, 350 U.S. 11 (1955).

To buttress the proposition Petitioner lacks any military status, only two days after the CAAF entered an order on December 17, 2025 that Petitioner is to proceed without assigned appellate defense counsel (although he did not waive counsel under 10 U.S.C. § 870) on December 19, 2025 the D.C.

filed by an appellate defense counsel shall be delivered or mailed to the accused by the moving counsel.

Circuit Court of Appeals published a judgment stating, “Appellant David J. Rudometkin *was a major* in the United States Army,” (Appendix 1a). This judgment is a clear indicator that not only are both courts closely monitoring Petitioner’s two cases, but also there is merit to Petitioner’s legal claim he ceased holding a legal title as a United States officer as per the legislative mandates fixing a term of office as per 10 U.S.C. § 632(a)(1). This civil judgment indicating Petitioner’s was administratively removed from office, conflicts with the finality of a court-martial judgment as per 10 U.S.C. § 876 because the civil judgment reflecting Petitioner does not have any military status was entered *before* the CAAF entered its orders denying a petition for discretionary review under Article 67(a)(3) UCMJ, although there was no supplemental brief submitted by appellate defense counsel, and *before* the CAAF denied Petitioner’s pro se Petitions for Extraordinary relief.

In other words, after final military appellate review, the sentence of a Dismissal from a court-martial cannot legally be made final as per 10 U.S.C. § 876⁴, because Petitioner was first administratively removed from office pursuant to 10 U.S.C. § 632(a)(1). As per this Court’s precedent in *Clinton v. Goldsmith*, 526 U.S. 529 (1999) the CAAF does not have statutory jurisdiction under Article 67(a)-(c) UCMJ, or the All Writs Act, 28 U.S.C. § 1651 to decide upon executive actions dropping an officer from the rolls. The District Courts have jurisdiction to review statutes concerning a service secretary’s powers concerning military discharges and characterization of service as per *Harmon v. Brucker*, 355 U.S. 579 (1958) This is precisely the route Petitioner took by filing an APA lawsuit in *Rudometkin v. Driscoll* Civ. A. No. 21-1695-TSC (D.D.C).

Accordingly, it is for good cause to grant Petitioner’s application for an extension of time to submit a writ certiorari, not only to allow Petitioner extra time because he is not trained

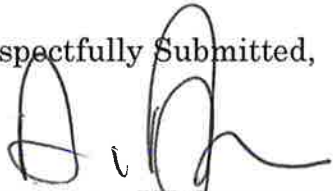
⁴ Art. 76, UCMJ. *Finality of proceedings, findings, and sentences.* The appellate review of records of trial provided by this chapter, the proceedings, findings, and sentences of courts-martial as approved, reviewed, or affirmed as required by this chapter, and all dismissals and discharges carried into execution under sentences by courts-martial following approval, review, or affirmation as required by this chapter, are final and conclusive.

in the law and is involuntarily proceeding *pro se*, but also to account for a pending a decision *Rudometkin v. Driscoll* Civ. A. No. 21-1695-TSC (D.D.C) for declaratory judgment, declaring the operation of law 10 U.S.C. § 632(a)(1) removed Petitioner from office as a United States Army officer on January 31, 2016. Again, this case was recently remanded from the D.C. Circuit where it entered a judgment on December 14, 2024 stating, “Appellant David J. Rudometkin was a major in the United States Army. He was scheduled to be involuntarily retired, but his retirement orders were rescinded” (See Appendix 1a). This is a precise explanation of final agency action that irrevocably ensured Petitioner *was a major*, as of January 31, 2016, that is thoroughly argued and supported by well-established and long-standing precedent from this Court in an amended complaint recently submitted to the District Court (Appendix 6-114). The Court published a schedule where final briefs are due by October 15, 2025 (See *Rudometkin v. Driscoll*, Civ. A. No. 21-1695-TSC (D.D.C) Dkt. No. 67, dated May 12, 2024 (see Appendix 156a). This date also coincides with Petitioner’s application for an extension of time to submit a writ of certiorari, if this Court does not grant Petitioner’s application for a Stay.

CONCLUSION

For the foregoing reasons, this Court should find it in Petitioner’s favor to grant an application to extend time to submit a petition for a writ of certiorari up to and including October 12, 2025. Or, alternatively, if this Court grants Petitioner’s application to Stay, pending a decision in *Rudometkin v. Driscoll*, Civ. A. No. 21-1695-TSC (D.D.C) it will moot this application to extend time to submit a petition for a writ of certiorari.

Respectfully Submitted,



DAVID J. RUDOMETKIN
Pro Se (Involuntarily)
 U. S. Disciplinary Barracks
 1300 N. Warehouse Road
 Fort Leavenworth, KS 66027

**United States Court of Appeals
For the Armed Forces
Washington, D.C.**

In re
David J.
Rudometkin,

USCAAF Dkt. No. 25-0093/AR

Petitioner

ORDER

On consideration of the petition for extraordinary relief in the nature of writ of habeas corpus, it is, by the Court, this day of 14th day of March, 2025,

ORDERED:

That the petition is hereby denied.

For the Court,

/s/ David A. Anderson
Deputy Clerk of the Court

cc: The Judge Advocate General of the Army
Petitioner (Pro Se)
Counsel for Respondent

**United States Court of Appeals
For the Armed Forces
Washington, D.C.**

In re
David J.
Rudometkin,

USCAAF Dkt. No. 25-0103/AR

Petitioner

ORDER

On consideration of the petition for extraordinary relief in the nature of writ of prohibition, it is, by the Court, this day of 14th day of March, 2025,

ORDERED:

That the petition is hereby denied.

For the Court,

/s/ David A. Anderson
Deputy Clerk of the Court

cc: The Judge Advocate General of the Army
Petitioner (Pro Se)
Appellate Government Counsel (Barr)

**United States Court of Appeals
for the Armed Forces
Washington, D.C.**

In re
David J.
Rudometkin,

Petitioner

USCAAF Dkt. No. 25-0093/AR
USCAAF Dkt. No. 25-0103/AR
USCAAF Dkt. No. 24-0179/AR

ORDER

On consideration of Petitioner's pro se petition for reconsideration for a writ of habeas corpus and prohibition, dated April 6, 2025, it is noted that Petitioner has submitted multiple redundant filings with this Court, the Supreme Court of the United States, and the lower court over the last year seeking direct and collateral review of his general court-martial, to no avail. Accordingly, it is, by the Court, this day of 12th day of May 2025,

ORDERED:

That the petition for reconsideration for a writ of habeas corpus and prohibition is denied; and

That barring extraordinary circumstances, further filings with this Court will be viewed with disfavor.

For the Court,

/s/ David A. Anderson
Deputy Clerk of the Court

cc: The Judge Advocate General of the Army
Petitioner (Pro Se)
Counsel for Respondent

**United States Court of Appeals
For the Armed Forces
Washington, D.C.**

In re
David J.
Rudometkin,

Petitioner

USCAAF Dkt. No. 25-0093/AR

ORDER

On consideration of Petitioner's pro se petition for a writ of mandamus and reconsideration, dated March 23, 2025, it is noted that Petitioner has submitted multiple redundant filings with this Court, the Supreme Court of the United States, and the lower court over the last year seeking direct and collateral review of his general court-martial, to no avail. Accordingly, it is, by the court, this day of 12th day of May 2025,

ORDERED:

That the petition for a writ of mandamus and reconsideration is denied; and

That barring extraordinary circumstances, further filings with this Court will be viewed with disfavor.

For the Court,

/s/ David A. Anderson
Deputy Clerk of the Court

cc: The Judge Advocate General of the Army
Petitioner (Pro Se)
Counsel for Respondent

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

DAVID J. RUDDOMETKIN — PETITIONER
(Your Name)

VS.

UNITED STATES — RESPONDENT(S)

PROOF OF SERVICE


I, DAVID J. RUDDOMETKIN, do swear or declare that on this date, JUNE 30, 2025, as required by Supreme Court Rule 29 I have served the enclosed ~~MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS~~ and ~~PETITION FOR A WRIT OF CERTIORARI~~ on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

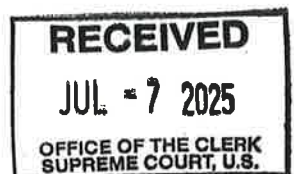
The names and addresses of those served are as follows:

SOLICITOR GENERAL OF THE UNITED STATES, Room 5614
DEPARTMENT OF JUSTICE, 950 PENNSYLVANIA AVE. N.W., WASHINGTON,
D.C. 20531-0001

I declare under penalty of perjury that the foregoing is true and correct.

Executed on JUNE 30, 2025


(Signature)



**Additional material
from this filing is
available in the
Clerk's Office.**