

United States Navy - Marine Corps Court of Criminal Appeals

In Re
Breyer M. HOUSTON
Lieutenant (O-3)
U.S. Navy
Petitioner/Appellee

NMCCA NO. 201900245

Special Panel 3

ORDER

UNITED STATES
Respondent/Appellant

Denying Cross-Petition

On 6 September 2019, Respondent/Appellant filed an Appeal with the Court pursuant to Article 62, Uniform Code of Military Justice, 10 U.S.C. § 862, challenging the military judge's suppression of prosecution evidence pursuant to Military Rules of Evidence 403 and 413. That Appeal remains pending before the Court.

On 16 October 2019, Petitioner/Appellee, filed a Cross-Petition for Extraordinary Relief in the Nature of a Writ of Mandamus. The Cross-Petition seeks to have this Court vacate the military judge's ruling on the application of Military Rule of Evidence 510 regarding whether the complaining witness may reassert her privilege over certain matters in her mental health records.

In accordance with Navy-Marine Corps Court of Criminal Appeals Rule of Appellate Procedure 19(f), the Court has declined to order Respondent/Appellant to file a response to the Cross-Petition. Having considered the Cross-Petition, it is, this 6th day of November 2019,

ORDERED:

That the Cross-Petition for a Writ of Mandamus is **DENIED**, without prejudice to raise any and all issues contained in the Cross-Petition should this Court acquire jurisdiction over a timely appeal of a court-martial conviction filed pursuant to Article 66(b), UCMJ, 10 U.S.C. § 866(b) (2019).



FOR THE COURT:

A handwritten signature in blue ink, appearing to read "Roger A. Drew, Jr.", is written over the typed name.

RODGER A. DREW, JR.
Clerk of Court

In Re Houston, No. 201900245, Order Denying Cross-Petition

Copy to:

NMCCA (51.3)

45 (Capt Fulton)

46 (Maj Meeder, LCDR Ceder)

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