## IN THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

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ROBERT B. BERGDAHL,	:	
Sergeant, U.S. Army,	:	
	:	
Petitioner,	:	
	:	Army Misc. Dkt. No.
v.	:	20150624
	:	
	:	USCA Dkt. No. 16-0059/AR
PETER Q. BURKE,	:	
Lieutenant Colonel, AG	:	Dated: 14 October 2015
U. S. Army,	:	
in his official capacity as	:	
Commander, Special Troops	:	
Battalion, U. S. Army Forces Com-	:	
mand, Fort Bragg, NC, and Special	:	
Court-Martial	:	
Convening Authority,	:	
	:	
and	:	
	:	
UNITED STATES,	:	
	:	
Respondents.	:	
	:	
	x	

## UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE THE CENTER FOR CONSTITUTIONAL RIGHTS IN SUPPORT OF PETITIONER

The Center for Constitutional Rights hereby moves for leave to file the attached amicus curiae brief in support of Petitioner Bergdahl in the above-captioned matter. As a courtesy, undersigned counsel contacted counsel for both parties seeking their consent to this motion. Petitioner's counsel Eugene R. Fidell and counsel for the government, Col. Mark H. Sydenham, indicated that their clients had no objection to this filing.

Good cause exists for this Court to grant this motion for leave to file. The Center for Constitutional Rights (CCR) is a nonprofit public interest law firm also engaged in public education, outreach and advocacy. In this capacity, CCR represented a large number of prospective media intervenors in the issue of public access to briefs, transcripts, and judicial orders in the Court Martial proceedings against Bradley (now Chelsea) Manning. *See Center for Constitutional Rights v. United States*, 72 M.J. 126 (C.A.A.F. 20013); *Center for Constitutional Rights v. Lind*, 954 F. Supp. 2d 389 (D. Md. 2013).

In the wake of the 9/11 attacks, CCR also litigated challenges by aliens and media to the ad hoc government policy of closing certain deportation hearings to the press and public. See Haddad v. Ashcroft, 221 F. Supp. 2d 799 (E.D. Mich. 2002), consolidated with Detroit Free Press v. Ashcroft, 195 F. Supp. 2d 937 and 195 F. Supp. 2d 948 (E.D. Mich. 2002) (granting injunctive relief), affirmed, 303 F.3d 681 (6th Cir. 2002); North Jersey Media Group v. Ashcroft, 205 F. Supp.2d 288 (D.N.J. 2002) (granting nationwide injunctive relief), stay granted, 70 U.S.L.W. 3798 (U.S. June 28, 2002), rev'd, 308 F.3d 198 (3d Cir. 2002), cert. denied, 538 U.S. 1056 (2003). Because Sgt. Bergdahl's request for relief -- an order allowing him to make public various documents submitted and received into evidence during his Article 32 proceedings -- must be considered in light of the First Amendment right of the public to contemporaneous access to the documentary record of criminal proceedings, CCR's expertise in this area should prove helpful to this court. We therefore respectfully request that this court grant leave and accept for filing the attached brief of amicus curiae.

Date: New York, New York 14 October 2015

Respectfully submitted,

/s/sdk Shayana D. Kadidal [C.A.A.F. Bar No. 35713] J. Wells Dixon Baher Azmy, Legal Director CENTER FOR CONSTITUTIONAL RIGHTS 666 Broadway, 7th Floor New York, New York 10012 Tel: (212) 614-6438 Fax: (212) 614-6499

Counsel for Amicus Curiae