

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

Robert B. Bergdahl,
Sergeant (E-5)
United States Army,

Appellant-Intervenor

v.

ROBERT B. ABRAMS,
General, US Army,
In his official capacity as
Commander of United States
Army Forces Command,
Fort Bragg, NC, and General
Court-Martial Convening
Authority,

PETER Q. BURKE,
Lieutenant Colonel (O-5), AG
US Army,
In his official capacity as
Commander, Special Troops
Battalion, United States Army
Forces Command,
Fort Bragg, NC, and Special
Court-Martial Convening
Authority,

MARK A. VISGER,
Lieutenant Colonel (O-5), JA,
US Army,
In his official capacity as
Preliminary Hearing Officer
for Article 32 Proceedings
against Robert B. Bergdahl,
Sergeant, US Army,

and

UNITED STATES,

Appellees

MOTION TO FILE OUT-OF-TIME
GOVERNMENT RESPONSE TO WRIT-
APPEAL FOR REVIEW OF U.S. ARMY
COURT OF CRIMINAL APPEALS
DECISION ON PETITION FOR WRIT OF
MANDAMUS

Crim. App. Dkt. No. 20150652

USCA Dkt. No. 16-0119/AR

**TO THE HONORABLE JUDGES OF THE
UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES:**

COMES NOW the undersigned appellate government counsel, pursuant to Rule 30 of this Honorable Court's Rules of Practice and Procedure, and moves to file the government response to appellant-intervenor's writ-appeal in *Hearst Newspapers, LLC et al v. Abrams* out-of-time.

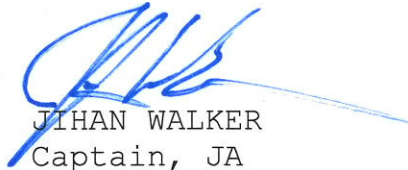
1. On 3 November 2015, petitioners filed a writ-appeal to this court. Appellant-intervenor filed a writ-appeal and motion to intervene with this Court on 4 November 2015. Appellant-intervenor requested this court's permission to adopt the petitioners' arguments and appellant-intervenor's prior arguments from his writ-appeal petition to this court in *Bergdahl v. Burke II*, Crim. App. Dkt No. 20150624; USCA Dkt. No. 16-0059/AR.

2. On 9 November 2015, the government requested an extension to submit its answer to petitioners' writ-appeal, which this court granted. The government misunderstood the meaning of this extension.

3. If this court grants appellant-intervenor's request to intervene in petitioners' writ-appeal and adopt appellant-intervenors' prior arguments from *Bergdahl v. Burke II*, the government's out-of-time response addresses appellant-

intervenor's arguments. Therefore, granting this motion is in the interest of justice.

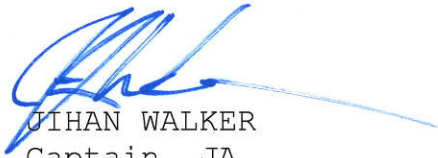
WHEREFORE, the Government prays this motion be granted.



JIHAN WALKER
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CERTIFICATE OF FILING AND SERVICE

I certify that the foregoing Motion to File Government Response Out-Of-Time was electronically filed with the Court to efiling@armfor.uscourts.gov on 20 November 2015 and contemporaneously served electronically on Defense Appellate Division, Mr. Eugene Fidell, and Ms. Jennifer Bishop.



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