IN THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES

Sergeant ROBERT B. BERGDAHL, ) APPELLANT-INTERVENOR’S REPLY
U.S. Army, )
) Appellant-Intervenor,
)
) v.
)
General ROBERT B. ABRAMS )
and Lieutenant Colonels )
PETER Q. BURKE and )
MARK A. VISGER, U.S. Army, )
in their official capacities, )
) and
UNITED STATES, ) No. 20150652
)
Appellees. ) USCA Dkt. No. 16-0119/AR

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

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This case and Hearst Newspapers, LLC v. Abrams, No. 16-0116/AR, seek review of the same decision of the U.S. Army Court of Criminal Appeals. Closely related issues are pending in Bergdahl v. Burke, No. 16-0059/AR. Sergeant Bergdahl respectfully adopts the arguments advanced by the Hearst appellants with respect to jurisdiction. Given the passage of time, however, the Court may wish to address both jurisdiction and the merits since the Army Court’s incorrect views on the merits are apparent from the decision that is already before this Court in No. 16-0059/AR.

Respectfully submitted,

/s/ Eugene R. Fidell
Eugene R. Fidell
CAAF Bar No. 13979
Feldesman Tucker Leifer Fidell LLP
1129 20th Street, N.W., Ste. 400
Washington, DC 20036
(202) 256-8675 (cellphone)
efidell@ftlf.com

Civilian Defense Counsel

*Appellees appear to be under a misapprehension as to SGT Bergdahl’s status in these proceedings. The Army Court granted him leave to intervene because he is a real-party-in-interest. That made him a full party below. When the Army Court decided the case, both the Hearst appellants and he filed writ-appeals. These have been docketed separately although one would assume they will be consolidated or at least considered together. In any event, as a party below, SGT Bergdahl has a right to seek review here by writ-appeal. He had no need to move to intervene again here and, contrary to appellees’ submissions (Gov’t Response at 2; see also Appellees’ Motion to File Out-of-Time Gov’t Response at 1 (¶ 1)), he has not done so. See Bergdahl Writ-Appeal Petition at 1.
/s/ Franklin D. Rosenblatt
Franklin D. Rosenblatt
Lieutenant Colonel, JA
CAAF Bar No. 36564
U.S. Army Trial Defense Service
9275 Gunston Road, Suite 3100
Fort Belvoir, VA 22060
franklin.d.rosenblatt.mil@mail.mil
(703) 693-0283

Individual Military Counsel

/s/ Alfredo N. Foster, Jr.
Alfredo N. Foster, Jr.
Captain, JA
CAAF Bar No. 36628
U.S. Army Trial Defense Service
Ft. Sam Houston
Joint Base San Antonio, TX 78234
alfredo.n.foster.mil@mail.mil
(210) 295-9742

Detailed Defense Counsel

/s/ Jonathan F. Potter
Jonathan F. Potter
Lieutenant Colonel, JA
CAAF Bar No. 26450
Defense Appellate Division
jonathan.f.potter3.mil@mail.mil
(703) 695-9853

Appellate Defense Counsel
Certificate of Filing and Service

I certify that I have, this 20th day of November, 2015 filed and served the foregoing Reply by emailing copies to the Clerk of Court and all counsel at the following email addresses:

efiling@armfor.uscourts.gov
jihan.e.walker.mil@mail.mil
usarmy.pentagon.hqda-otjag.mbx.usalsa-gad@mail.mil
dibarguen@hearst.com (Diego Ibarquen, Hearst et al.)
jbishop@hearst.com (Jennifer D. Bishop, Hearst et al.)
shayana.kadidal@gmail.com (Shayana Kadidal, CCR)
rvanlandingham@swlaw.edu (Rachel VanLandingham, NIMJ)
mljucmj@court-martial.com (Philip D. Cave, NIMJ)
daniel.kummer@nbcuni.com (Daniel Kummer, NBC)

Eugene R. Fidell
Civilian Defense Counsel