

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,) Crim. App. Misc. Dkt.
) 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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Reply

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,

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* 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.

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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:

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