

IN THE UNITED STATES COAST GUARD
COURT OF CRIMINAL APPEALS

VADM Manson K. BROWN, USCG
Convening Authority,
Petitioner

1 November 2011

PETITION FOR EXTRAORDINARY RELIEF
IN THE NATURE OF A WRIT OF
MANDAMUS AND MOTION TO ATTACH
FILED 27 OCTOBER 2011

v.

CAPT Michael TOUSLEY, USCG
Military Judge,
Respondent

MISC. DOCKET NO. 001-12

ORDER – PANEL SIX

Petitioner seeks an order directing Respondent to conduct two general courts-martial in the venue selected by Petitioner. According to the petition, supported by documents that are the subjects of a motion to attach, Petitioner has referred two cases to general court-martial convened by his order 2-11, which specified that the court-martial meet at Alameda, California. In both cases, Respondent, the trial judge who will preside over the cases, has ordered the cases to be tried at Seattle, Washington. The Government has filed a motion for reconsideration of that order in each case. Respondent has notified counsel by email that he will not rule on the motions until he receives the witness lists, among other things. He has further stated by email, “I recognize that my concern about cost does not provide me with the authority to redesignate the site. Nevertheless, I remain responsible to make a fact-based ruling in response to my prima facie concern and RCM 801(a)’s direction,” citing RCM 801(a) and the discussion following it.

Petitioner argues that Respondent does not have the authority to order the cases to be tried in a location other than that specified in the convening order, and that his attempt to do so is a usurpation of Petitioner’s authority. Inasmuch as the motions for reconsideration are pending, it is, by the Court, this 1st day of November, 2011,

ORDERED:

That the motion to attach documents is granted; that the Petition for Extraordinary Relief is dismissed.



For the Court,

Andrew R. Alder
Deputy Clerk of the Court

Copy: Chief, Office of Military Justice
Appellate Government Counsel
Chief, Legal and Defense Services