

No. 17-243

In the Supreme Court of the United States

LIBAN H. ABDIRAHMAN, ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ARMED FORCES*

SUPPLEMENTAL BRIEF FOR THE UNITED STATES

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The petitioners in this case are 165 military service-members who were convicted of various offenses by military courts-martial. Their petition for a writ of certiorari presents the same issues as *Dalmazzi v. United States*, No. 16-961 (argued Jan. 16, 2018), and the consolidated cases.

One of the petitioners, Lieutenant Colonel Michael Briggs, has filed a supplemental brief raising a separate issue. Briggs was convicted of rape in violation of Article 120 of the Uniform Code of Military Justice (UCMJ), 10 U.S.C. 920, based on an incident that occurred in 2005. Pet. App. 130a n.1. He now contends (Supp. Br. 1-2) that his prosecution was time-barred under *United States v. Mangahas*, 77 M.J. 220 (C.A.A.F. 2018). In *Mangahas*, the United States Court of Appeals for the Armed Forces (CAAF) held that, under the version of the UCMJ in effect before 2006, the statute of limitations for rape was five years. *Id.* at 222-225 & n.2. In so

holding, the CAAF overruled its decision in *Willenbring v. Neurauter*, 48 M.J. 152 (1998), which had held that rape was not subject to a statute of limitations. *Mangahas*, 77 M.J. at 222. Briggs contends (Supp. Br. 2) that even if this Court would otherwise deny the petition for a writ of certiorari, it should grant the petition as to him, vacate the CAAF's judgment in his case, and remand for further consideration in light of *Mangahas*.

The government has not yet decided whether to seek further review in *Mangahas*. Under the circumstances, however, the government does not oppose Briggs's request that his case be remanded to the CAAF so that the military courts can consider in the first instance his claimed entitlement to relief under that decision.

Respectfully submitted.

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