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On-line Agenda

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BADC, Military Law Committee, 1225 19th Street, NW, Suite 800, Washington, D.C. 20036
<http://www.badc.org/html/militarylaw.htm> · billcfr@verizon.net · (703) 299-8496

Opening Remarks

By William Aramony, MLC Chair

The Military Law Committee (MLC) continues to move forward. Get involved, talk to me, and lead projects. Help us better serve BADC and the community in regard to military legal issues. We do not operate in a vacuum. Military law, what BADC does, what we do, are extremely important, particularly now.

A new MLC tool is this Newsletter and the updated web page, thanks to Michael Eisenberg. Much other work was done. Letters of support for Veterans Choice were sent the Washington Post and/or the Senate Committee, from former BADC president William Atkins, Kevin Barry and Adele Odegards (each former Chair remains very involved and a huge help), and James McKay of Covington and Burling. Hill insight and assistance from several, e.g., Kevin Barry, Gene Fidell, Thaddeus Hoffmeister, and Vieux Hardy. **Next Meeting is 2 August 2006/Wed.**

VETERANS' CHOICE

Detainees and Saddam Hussein get attorneys. It is illegal for American veterans to pay an attorney to help get benefits from Veterans Affairs. Proposed "Veterans Choice of Representation" Acts would allow hiring the attorneys. The House bill (HR 5549) remains in the House Committee for Veterans' Affairs. The Senate bill, (S2694) is out of Committee (with amendments) and on the Senate Legislative Calendar.

Disabled American Veterans strongly opposes attorneys for veterans. The American Legion is unopposed to the concept, but wants pay caps and other restrictions. BADC then-President William Atkins wrote letters to the American Bar Association (ABA) supporting the legislation. MLC attended the Senate hearing and now works with the ABA supporting the legislation. Several MLC member letters of support were given both media and the Senate committee. Letters to the Washington Post editor were published, one from Past MLC Chair Adele Odegards and one from William Atkins, which W.S. Aramony also signed. BADC (present) President Keith Watters is assisting at the next phase.

No way to know if the Acts will pass, but expect more to happen on this.

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Military Tribunals

January 6, 2006, the National Institute for Military Justice and BADC filed an amicus curiae brief in *Hamdan v. Rumsfeld*, the U.S. Supreme Court case opposing military tribunals created to try Guantanamo detainees. On June 29, 2006, the Supreme Court ruled 5-3 that the creation of the tribunals exceeded the President's authority. Congress is holding hearings on possible legislation and each of the military services have urged procedural fairness. In tracking legislative changes, note that Articles 21 and 36, Uniform Code of Military Justice (UCMJ) were relevant to the Hamdan decision. In June, we emailed MLC members articles on military commissions written by MLC members Kevin Barry and Eugene Fidell and a brief filed with the Supreme Court in *Hamdan*. (In *Padilla*, the Supreme Court ruled differently than we had hoped but we won this one.)

"Congress is holding hearings on possible legislation and each of the military services have urged procedural fairness."

Military Attorney Practitioner's Directory

Over the past several months, we have discussed creating a directory of quality attorneys with military experience or expertise on military issues. We have also discussed training attorneys to allow assistance to service members. Even a divorce involves pension and other unique military issues. Recalled Reserves and deployed service members also have specific, federal rights. The attorneys listed can either practice in the area of military law and/or assist military personal with civilian issues. It may be easier for production and dissemination to create a web directory similar to the ABA Solosez National Solosez Directory, <http://www.solosez411.net/>. We can put as much or as little information as we want (including bios?). We want to hear your thoughts, either at the meeting or e-mail Bill at billcfr@verizon.net.

It is good for service members. It is good for your business.

"It is good for service members. It is good for your business."

DISASTER LEGAL ASSISTANCE

You may want to be added to the ABA LAMP Committee attorney list for legal assistance and legal specialists for mobilizations and domestic disasters. Remembering Katrina, a list of MLC and other attorneys (and their expertise) also may be useful. We could offer to assist active duty JAGs during disasters or mobilizations, or to allow referrals as volunteers or for reasonable fees. Also see *Military Practitioners Directory*, above. During Katrina, sometimes a question on insurance or class action, or other law, was asked. Sometimes they needed to refer to outside attorneys but did not like individual referrals, preferring referrals to Bar lists.

Any volunteers to help the George Mason military clinic law students represent service members? They need attorneys to sponsor students in D.C. and Virginia Courts? The students do the work and have a clinical professor. Please e-mail Bill at billcfr@verizon.net.

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Religion in the Military

Military authority and Constitutional rights are among the legal issues embedded in recent law suits, and in military regulations. On July 7, 2006 the appellate court in *Chaplaincy of Full Gospel Churches v. England*, (D.C. Cir., 2006) reversed a U.S. District Court denial of a preliminary injunction and remanded. The law suit is by “non-liturgical Protestant” faiths” alleging that the Navy has unconstitutionally established and maintained a religious Chaplain quota system. *Wilkins v. United States*, 2005 U.S. Dist. LEXIS 41268 (SD Cal., June 29, 2005) was a similar suit (In *Wilkins*, the claims were denied). *Weinstein v. Air Force*, CIV-05-1064 JP/LAM, U.S. District Court New Mexico is a suit by former Air Force cadet and Reagan administration lawyer claiming religious discrimination at the Air Force Academy. Additionally, a House bill was submitted to create a Commission on Religious Freedom and Respect in the Armed Forces, HR 3108. If passed it would “... assess the freedom of religion and respect for the diversity of spiritual values in the Armed Forces.” [According to Thomas.gov, the bill remains in the Subcommittee on Military Personnel.] The Air Force and Navy each issued instructions with the stated intent of achieving a pluralistic environment that respects the free exercise of religion by all military members. E.g. SECNAV Instruction 1730.7C, Feb. 1, 2006) [Except in extraordinary circumstances, any religious element in a Navy function that is not a religious service must be non-sectarian].

I have heard that several of you support the military services pluralistic approach, for statutory and constitutional reasons. Other legal points of view?

Civilian Iraqi Deaths and Charges

A former U.S. Army 101st Airborne Division soldier stationed in Fort Campbell, Kentucky is charged in the Western District of Kentucky with killing four Iraqi civilians -- a man, two women and a young girl -- and raping one of the female murder victims at their house near Mahmudiyah, Iraq. Seven Marines and a hospital corpsman have been charged with kidnapping and murdering an Iraqi civilian in Hamdania. The Camp Pendleton prosecution team just increased in number and, of this writing, we soon expect an Article 32. Regarding civilian deaths by U.S. Marines at Haditha, Major General Eldon Bargewell, U.S. Army completed his report several weeks ago. We await completion of these inquiries.

We noticed MLC members were defense attorneys in some cases, and Bill is advising an Officer in respect to Haditha. Email Bill at billcfr@verizon.net if you know information of interest to the MLC.

SECNAV Instruction 1730.7C, Feb. 1, 2006) [. . . , any religious element in a Navy function that is not a religious service must be non-sectarian.]

“[The Mahmudiya investigation] is among a number of probes into alleged killings of civilians by U.S. forces in Iraq.” – CNN.com

ABA/Projects/Speaker

Going to the floor at the ABA convention with the support of BADC delegates and President Keith Watters is the resolution urging Congress to amend 28 U.S. C. §1259(3) and (4) to permit discretionary review by the Supreme Court of decisions rendered by the United States Court of Appeals for the Armed Forces that deny petitions for review of courts-martial convictions or deny extraordinary relief. More to come on this. Guest speakers were discussed in prior meetings. Recall that a Judge on the Navy and Marine Corps Court of Military Appeals has offered to speak to Bar groups. Any interest? We have an opportunity to not only hear from these groups but others.

We need some project leaders. MLC does a lot on which we need help (see above) and Kevin Barry cannot do it all. **What do YOU want to do?**

MLC is On-line Now!

The Military Law Committee now has a stronger presence on the web.

We have just updated a webpage off of the Bar Association's of the District of Columbia's committee page. You can access the site at

<http://www.badc.org/html/militarylaw.htm>.

In the future, the site will have not only a description about who we are and what we do but will have links on current legal issues of interests to the MLC, current activities, and maybe a link to a National Military Attorney directory, see *Military Attorney Practitioner's Directory* on page 2.

Please submit your comments and suggestions on we can improve our web presence to MLC Chair Bill Aramony at billcfr@verizon.net.

Disclaimer

The newsletter is intended to educate and continue MLC member dialogue and ideas. We are not reporting news and readers are encouraged to fact check agenda items. Personal opinion represented in the items does not necessary reflect those of the BADC, the MLC, and/or any of its members. By these same tokens, MLC members are encouraged to voice opinions and thoughts in both e-mail discussions and member meetings, and to submit information for this newsletter.

Bar Association of the District of
Columbia, Military Law Committee
1225 19th Street, NW, Suite 800,
Washington, D.C. 20036

MLC Chair: Bill Aramony

Newsletter Editor: Michael Eisenberg

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billcfr@verizon.net



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