

**Military Commissions:
ISN 10026 Hadi Al Iraqi Pre-Trial Hearings
Voir Dire of Judge Lt. Col. Michael Zimmerman
July 13–14, 2021**

The Chief Trial Judge of the Military Commissions detailed Judge Lt. Col. Michael Zimmerman to the ISN 10026 Hadi Al Iraqi trial process on September 17, 2020.¹ Four months later, the United States Circuit Court of Appeals in the District of Columbia heard arguments on January 11, 2021, concerning bias or the appearance of bias resulting from Judge Lt. Col. Zimmerman's efforts to seek employment with the DOJ (the entity involved in prosecuting the detainee) following his retirement from military service. On April 9, 2021, the Circuit Court decided in favor of the appearance of bias,² and though not granting the petitioner's request to dissolve this commission, allowed the defense to name any and all determinations made by prior judges to be considered de novo by Judge Lt. Col. Zimmerman. The judge must now strike a balance between familiarizing himself with the trial record, while not being unduly influenced by it, so that he may use his discretion in deciding when to allow the introduction of new evidence.

Per his submitted biography,³ Judge Lt. Col. Zimmerman is presently a sitting trial judge for the Northern Judicial Circuit for the military and functions as the Deputy Chief Trial Judge of the Navy and Marine Corps Trial Judiciary. He previously worked as a battalion judge advocate for several battalions while deployed to Iraq, a regimental judge advocate while deployed to Afghanistan, and as a staff judge advocate for the U.S. Marine Corp Forces, Europe and Africa.

At the conclusion of voir dire, no challenges were made by the government concerning the judge's qualifications. The defense determined not to disqualify the judge but reserved their right to do so if it became necessary in the future.

Voir Dire:

Questions:⁴	Judge's Answers:
G: Is the judge eligible for or nearing retirement?	No. Three or four years from retirement eligibility.
G: Is the judge seeking follow-on employment opportunities?	No.
G: When did the judge first learn of the accused?	During detailing, September 2020.
G: Did the judge, his family, or his close friends have any prior connection to the accused?	No.

1 Detailing document: AE001D "Military Judge Detailing Memorandum" available at [https://www.mc.mil/Portals/0/pdfs/allIraqi/AI%20Iraqi%20\(AE001D\).pdf](https://www.mc.mil/Portals/0/pdfs/allIraqi/AI%20Iraqi%20(AE001D).pdf)

2 "In Re: Nashwan Al Tamir, Petitioner, On Petition for a Writ of Mandamus and Prohibition" available at [https://www.cadc.uscourts.gov/internet/opinions.nsf/53A416452A3EAFD6852586B2004F233D/\\$file/19-1212-1893804.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/53A416452A3EAFD6852586B2004F233D/$file/19-1212-1893804.pdf)

3 Biography: AE010C "Military Judge BIO" available at [https://www.mc.mil/Portals/0/pdfs/allIraqi/AI%20Iraqi%20\(AE010C\).pdf](https://www.mc.mil/Portals/0/pdfs/allIraqi/AI%20Iraqi%20(AE010C).pdf)

4 "G" stands for "government" and "D" stands for "defense," to denote which team asked the question.

Questions:⁴	Judge's Answers:
G: Since learning of the accused, has the judge seen, heard, or read anything about the case?	Only what the parties have filed, in conjunction with the 505 hearings prior to this first public hearing.
G: Has the judge heard any substantive discussions or opinions about the military commissions prior to detailing?	No.
G: Has the judge made any public comments or expressed any opinions about the military commissions, terrorism in general, Al Qa'eda, or the Taliban?	No.
G: Does the judge know or think he might know any members of the government or defense teams? Will any past relationship or association impair the judge's impartiality?	Judge has had a 20-year professional association with Puckett ⁵ and has been prosecutor against his defense but is not friends. Similarly, judge knows General Baker ⁶ and is aware he may be retiring but is not friends. Neither past association will impair the judge.
G: Considering the forthcoming reconsideration of motions and rulings, does the judge know any of these past prosecution or defense counsels?	<ul style="list-style-type: none"> • Mikael Clayton? No. • Lt. Col. David Long? No. • Maj. Joshua Bearden? No. • Felice Viti? No. • Maj. Kristy Milton? Judge has met Milton but does not know her. Interactions were not to a level where the judge formed an opinion that might impair impartial de novo review. • Maj. John Rudy? No. • Lt. Cdr. David Lincoln? No. • Cpt. Eric Depue? No. • Maj. Corey Squires? No. • Br. Gen. Mark Martins? No. • Lt. Col. Thomas Jasper? Judge has been prosecutor to Jasper's defense counsel at Camp Lejeune. It is a professional and non-personal relationship. Judge explained that the pool of marine judge advocates is small, so they all try cases against each other frequently. No opinion or prior relationship will impair the judge. • Maj. Robert Kincaid? No. • Maj. Wendall Hall? No. • Lt. Cdr. Keith Lofland? No. • Brent Rushforth? No.

⁵ Neal Puckett, a deputy chief defense counsel from the Military Commissions Defense Office (MCDO).

⁶ A detailing general for the defense.

Questions: ⁴	Judge's Answers:
	<ul style="list-style-type: none"> • Premal Dharia? No. • Robert Palmer? No. • Cdr. Amy Cooper? No. • Cpt. Jeffrey Fischer? No. • Cpt. Yolanda Miller? No. • Adam Thurschwell? No. • Maj. Kenitra Fewell? No. • Lt. Dahoud Askar? No. • Lt. Charles Ball? No. • Lt. Mishael Danielson? No. • Col. Karen Mayberry? No.
<p>G: Does the judge know Col. Jeff Groharing? When did the judge first meet Groharing? Will any prior relationship impair the judge's impartiality?</p>	<p>Judge met Groharing while on the bench on the west coast, where Groharing was a reserve military judge. They encountered each other at judicial conferences, as well, and are both on an e-mail chain in the Northern Judicial Circuit. Judge only has a professional relationship, not a personal relationship. It will not impair the judge.</p>
<p>G: Does the judge know Cpt. Kirk Waits, a prior military judge in this case?</p>	<p>Judge met Waits at judicial conferences but did not have a personal relationship. Probably would not be able to recognize Waits in a room. [...] This will not impair the judge's impartiality.</p>
<p>G: Does the judge know prior judge Col. Peter Rubin?</p>	<p>Judge knew both Rubin and Col. Mike Libretto, because they were all judges and counsels together at Camp Lejeune, and the small pool meant they encountered each other in court frequently. Judge still sees Libretto as a counsel of the east coast circuit but does not interact with him anymore. Neither of these prior relationships will impair the judge's impartiality.</p>
<p>G: Has the judge reviewed orders from fellow judges before, in other cases?</p>	<p>No. As a trial judge and not an appellate judge, he has not had to do that before.</p>
<p>G: Have any of the judge's family members or friends been victims of terrorism?</p>	<p>No.</p>
<p>G: When deployed in Iraq and Afghanistan, or at any other time, were there any experiences that would impair the judge's impartiality?</p>	<p>No.</p>
<p>D: Where is the judge's office, as a sitting trial judge in the Northern Judicial Circuit?</p>	<p>In the Navy Yard.</p>
<p>D: Please describe the current trial schedule for the judge in his Northern Circuit duties.</p>	<p>"It fluctuates." Currently three cases on the judge's docket, but several other judges can take those cases if the judge becomes unavailable. He tries not to hand cases off to other judges but keeps</p>

Questions:⁴	Judge's Answers:
	good notes in case it has to happen.
D: How many days a week, weeks a month, does the judge appear in court? What are his average daily commitments?	That is very case dependent. However, judge has informed the circuit military judge that the Military Commissions have priority, so the Northern Circuit's docket has no impact on anything docketed for the Military Commissions. Judge typically spends four or five days per month presiding over court, though a contested court martial recently went long.
D: Does the judge's prioritization of the military commissions over the circuit court extend to office commitments associated? Would judge be able to defer presiding over a trial if a complicated military commissions issue required consideration and briefing?	Yes.
D: How much does the circuit position require the judge to travel?	Judge only needs to travel between the Navy Yard and Quantico for the circuit. Possibly he would have to travel to New Orleans, but that appears currently be unlikely.
D: Does the judge review written pleadings as a trial judge? How long are they?	Yes, and the pleadings are usually shorter than five or ten pages.
D: Do the written pleadings call on the judge to decide novel legal issues? How many so far?	Sometimes. Most often, the pleadings deal with well-worn areas with substantial case law, but sometimes they deal with emerging areas of the law. So far, judge has been called on to consider two novel legal issues.
D: Does the judge have an attorney to assist with substantive work, or has he ever called upon one in this assignment?	No.
D: What is the duration of the judge's detailing as a sitting trial judge?	From summer 2020 to summer 2023.
D: Is the judge's office a SCIF, or is he able to access a SCIF in the Navy Yard?	Judge's office is not a SCIF, but he can access a SCIF in the Navy Yard and is not a far drive from the Office of Military Commissions (OMC) trial judiciary office. Judge usually chooses to go to OMC to work on commissions matters.
D: Does the judge maintain a TS//SCI clearance?	Yes.
D: When did the judge obtain his clearance?	Judge applied in 2017, as part of his assignment as SJA for Marine Corps Forces Europe and Africa. The clearance was finally adjudicated in 2018. It transferred when he was transferred to his

Questions: ⁴	Judge's Answers:
	current duties.
D: Does the other classified case the judge has provide an opportunity to hold CIPA-like hearings and use similar procedural postures?	Judge has only held a few pretrial hearings in the referenced case and does not believe any classified material will ultimately be used in the trial. It appeared that the parties would come to an agreement on the use of alternatives.
D: What are the judge's duties and responsibilities as deputy chief trial judge of the Navy and Marine Corps Trial Judiciary?	Judge assists the chief trial judge and other members of the judiciary, keeping all members updated on “changes and new things that arise in the law.”
D: Does the judge prepare the updates on developments in the law? How much time does that take, weekly?	Sometimes. It takes approximately eight or ten hours.
D: Does the judge exercise a supervisory capacity over anyone?	Judge is over a Marine clerk and a civilian administrative assistant in the office structure.
D: Was the judge ever informed that he was in the pool of judges that could be detailed to the military commissions?	Judge learned of his eligibility when Col. Watkins called to inform him of the detailing. Col. Watkins called the judge on his cellular phone to say that he was likely to be detailed. An e-mail followed. On further prompting, the judge noted that he was not able to determine when he was told the precise commission he was to oversee, nor exactly when the call occurred.
D: Did Col. Watkins discuss the commission specifically, or difficulties of trying cases in military commissions?	No.
D: Did Col. Watkins ever opine on the judge's job in presiding over a military commission? Did a person of higher rank ever express that a military commission might negatively impact the judge's career?	No.
D: Has the judge read any of the 40,000 or more pages of briefings and orders in this military commission?	Only what counsel has provided to the judge for 505 matters.
D: Has the judge read any of the 3000 or more pages of transcripts in this commission?	No, except any that were provided for 505 matters.
D: Is it the judge's responsibility to read the entirety of the record	No, the D.C. Circuit court has specified otherwise.

Questions: ⁴	Judge's Answers:
of this commission?	
D: Does the judge regard it as his duty to adhere to the rulings of the D.C. Circuit?	"I have an obligation for following the rulings of the judges above me in the appellate chain."
D: Has the judge ever attended a conference with Gen. Martins?	No.
D: Does the judge know the name "Michael O'Sullivan?" Does the judge have a relationship with the deputy chief prosecutor?	No, and no.
D: Does the judge know the name "Christian Reismeier?"	Yes. Judge remembered Capt. Reismeier was an active-duty Navy judge at one point.
D: Did the judge interact with Reismeier?	Possibly they attended the same judges' conferences, but he would not be able to recognize the captain.
D: Did those conferences ever discuss the military commissions? Did judges ever discuss their cases?	No, there was no discussion of the military commissions. Sometimes judges did discuss their cases, but Reismeier did not.
D: Was Reismeier ever in direct or indirect oversight of the judge's work?	No.
D: Elaborate on the relationship between the judge and the former defense counsel Lt. Col. Jasper.	<p>Jasper was a regional defense counsel for the East Coast when the judge returned to active duty in 2010. They interacted as opposition on a case and when they had managerial overlaps.</p> <p>When prompted, the judge noted that there was no animosity between them, but they did have an argument in the judge's office over a case being tried as an attempted homicide.</p>
D: Did the judge ever work for Jasper? Receive a fitness report from Jasper? Been supervised by Jasper?	No.
D: Does the judge retain a relationship with Jasper? Or are they "Facebook friends?"	No.
D: How did the judge first meet Libretto?	They tried a case against each other at Camp Lejeune, Libretto on the defense and the judge on the prosecution.
D: Did the judge work in the same office with Libretto?	Judge worked in the same H-shaped barracks building, with one wing for government and the other for defense.
D: Did the judge have lunch with Libretto?	"Ever? Maybe. I don't know. Not regularly."

Questions:⁴	Judge's Answers:
D: Did the judge socialize with Lt. Col. Libretto?	All-hands meetings hosted both government and defense counsels, but they never visited each other's houses. There were legal department softball and football games, and the judge probably played in those. There were golf outings, but the judge did not remember ever being in the same foursome as Libretto.
D: When was the last time the judge saw Libretto? What were the circumstances of that meeting?	Four weeks ago. Libretto is the defense litigation attorney advisor for the East Coast region, so was advising counsel who were trying a case before the judge.
D: Did the judge speak with Libretto about the Hadi commission at that time?	No.
D: Did the judge communicate with Libretto about his retirement?	No.
D: Did the judge attend a retirement party for Libretto or send him a note?	No.
D: How did the judge first meet Col. Peter Rubin?	Both were judges at the same time, during the judge's first time on the bench.
D: Was Rubin a mentor to the judge?	No.
D: How often do the Marine Corps judges get together in the same room?	Twice per year, once with all Navy/Marine Corps judges, once with all DOD judges.
D: Is there regular communication between the judges?	There is now a monthly call, but there was not one before the judge began as a deputy, to his knowledge.
D: Has the judge discussed the military commission with Rubin?	No.
D: Does the judge hold Rubin in particular esteem?	The judge has sought Rubin's professional advice as an experienced judge, but the judge does not consider himself particularly close with Rubin.
D: Did the judge meet Kirk Waits before?	Yes, sometime between 2014 and 2017. They were both on the bench.
D: Did the judge meet with Waits at judges' conferences?	Possibly. The judge did not remember specifically.
D: Was Waits a mentor to the judge?	No.
D: Did the judge communicate	No.

Questions:⁴	Judge's Answers:
with Waits about his retirement, or attend his retirement party?	
D: Does the judge know, or has he ever met or heard of Matthew Blackwood?	No.
D: Why is the judge not eligible for retirement for another three or four years, instead of next year?	“I have what's known as 'broken time.' Even though I was commissioned in 2000 and came on active duty in 2002, I've got broken time from 2007 to 2010 where I was in the reserves but not serving on active duty, so that time doesn't count.”
D: Has the judge discussed the prospect of future civilian employment with anyone other than family?	People have asked what the judge thinks he'll do when he retires, but he hasn't pursued discussions with potential employers.
D: Does the judge plan to seek employment with the DOJ or DOD in civilian capacity, in the duration of his service to the commission?	No.
D: After?	“I have no idea. I'm sort of hoping to stick around the Marine Corps for a bit longer, assuming my health holds up.”
D: Has the judge been advised of policy related to conflicts of interest in future employment in the trial judiciary/military commissions?	It's part of the screening questionnaire each year.
D: There's a questionnaire before you become a military judge for courts-martial? Is that questionnaire before beginning orders?	Yes.
D: Is a similar questionnaire provided by the military commissions trial judiciary?	No, but the judge assumes that the nominators see or know about the questionnaires before nominating and choose partly based on the answers.
D: When did the judge last fill out the questionnaire?	2019
D: Has there been training in conflicts of interest in future employment while the judge has been at the trial judiciary?	Not given by the commission staff.
D: Is the judge aware of whether that policy exists with respect to the trial judiciary?	There is a policy against conflicts of interest. However, the judge did not recall being sent policy documents by the commissions.

Questions:⁴	Judge's Answers:
D: Was the judge assigned an attorney advisor in the military commissions trial judiciary?	“Yes, I have a staff. I'm not sure what everybody's title actually is, but Mr. Neill is on my staff. I interact with him frequently.”
D: Did the judge have a prior relationship with Mr. Neill?	No.
D: Has the judge instructed Neill to notify you if he plans to seek future employment?	Yes.
D: Had the judge discussed the disclosure of potential conflicts of interest with respect to future employment with others on the trial judiciary staff?	The judge discussed it with Neill but didn't remember if he had discussed it with Mr. Taylor. He knew it had been a topic of discussion, though, due to court opinions.
D: Did the judge plan to have Neill take ex parte meetings without the judge present?	Judge could not think of a case in which that would be appropriate, so he didn't believe so.
D: Does the judge have the primary role for developing opinions in this commission? Does the judge conduct legal research?	Yes. The judge has the job to listen to the defense and the government, then think about and research what he hears, then to make the decision.
D: Has anyone told the judge that he has a job to keep the commissions moving?	No.
D: Is the judge in the zone for promotion to colonel? Has he submitted a package for promotion?	Yes. “The board will meet at the end of the month.”
D: Did the judge collect letters of recommendation?	No.
D: Who writes the judge's fitness report?	Chief Trial Judge Cpt. Stephens.
D: For how long?	Since the judge's detailing to deputy in summer of 2020.
D: Did anyone else have input into the judge's fitness report?	Possibly Cpt. Purnell, Chief Judge of the Navy.
D: Are litigators at a disadvantage in promotion prospects?	“The winds change from time to time.” Judge noted that having had command and having attended top schools were two major factors. The judge has not had command but did finish the Air War College via distance learning.
D: Are military judges at a disadvantage in promotion prospects?	“I don't think it's the job. [...] But who knows? You know, the boards meet, you know, somewhat in secret, so, you know, I'd say it's a bit of a guessing game to decide why some people make it and

Questions: ⁴	Judge's Answers:
	some people don't.”
D: Promotion would be an important milestone with financial implications, both immediately and to retirement?	Yes, it can be.
D: Has the judge reviewed any news articles on this case?	No.
D: Does the judge follow Carol Rosenberg or read <i>Lawfare</i> ?	No.
D: Does the judge read <i>Just Security</i> ?	Judge pulled an article on apolitical military or ethics from <i>Just Security</i> when he was an SJA, but he does not read it regularly.
D: Does the judge follow the news with respect to the military commissions or GTMO?	No.
D: Is the judge aware that military commissions get more attention than usual courts martial?	Yes.
D: Is the judge aware of public criticism of the duration of the military commissions?	Judge is not surprised that it exists.
D: Has the judge read the Senate Select Commission on Intelligence report on the CIA RDI, or seen <i>The Report</i> or <i>The Mauritanian</i> ?	No.
D: Has the judge gone out of his way to read about GTMO or the RDI?	No. The judge did read about the history of the acquisition of GTMO so he could discuss that with his son.
D: Can the judge fairly consider requests to compel the discovery of documents that may be embarrassing to the U.S. government?	Yes.
D: Can the judge fairly consider motions to compel witnesses to testify on mistreatment of Hadi by the U.S. government?	Yes.
D: Other than the previously mentioned classified case, has the judge presided over ex parte review of classified material?	No.

Questions:⁴	Judge's Answers:
D: Is the judge aware that in approving substitutions, he must read the full classified document first?	Yes, the judge said he is aware of what the 505 procedures detail.
D: Is the judge aware that he can reject substitutions offered by the government as “inadequate”?	Judge repeated that yes, he is aware of what the 505 procedures detail, and he sees it as his job to follow the rules, not to decide which rules he does and does not like. He intended to follow the 505 in its entirety.
D: “You're willing to follow the rules as they apply to you. Are you also willing to ensure the prosecution follows the rules as it applies to them – as they apply to them?”	“I think that that's always the case, particularly in an ex parte setting where the defense isn't present, to make sure that the rules are followed and correctly.”
D: Does the judge understand a large part of his role is to represent the defense counsel in reviewing substitutions?	“I have an obligation to ensure, as I do broadly in this commission, that a fair proceeding is had and that what we do here for this case is justice for everybody.”
D: How many years was the judge in legal practice before becoming a judge?	11-12 Judge passed the bar in 2002, began duty in 2003, and took the bench in 2014.
D: How many years were spent as a prosecutor?	8
D: What does it mean to be the “military justice officer”?	The term used to refer to the head of the prosecution section, filling an administrative role to smooth function and ensure training.
D: How long did the judge spend as a chief trial counsel and how long as a military justice officer?	A year for each.
D: When the judge was a military prosecutor, he supervised a group of 14 prosecutors?	Yes. Possibly a few more, but mostly the 14.
D: Did the judge teach them how to win cases?	“I actually would teach them that justice was the goal. I felt very strongly as a prosecutor that any prosecutor that wanted to talk about wins and losses had lost sight of what they were doing.” “[D]id I want them to be successful? Yes. Did I care about the scoreboard? No.”
D: Did the judge ever intervene with the prosecutors under supervision to encourage them to dismiss a case or charge?	“We talked about the ethical floor. [...] [T]here has to be a standard here by which we have to look at a case and say [...] there isn't enough here to even present this to a fact-finder.”
D: Did the judge ensure that the	The judge did ensure discovery obligations and does not remember

Questions:⁴	Judge's Answers:
prosecutors met their obligations with respect to discovery to the defense? Does the judge recall correcting a prosecutor for failing disclosure?	any need to impose correction.
D: Expand upon the judge's service as a civilian prosecutor in Cincinnati.	From 2007 through 2009, the judge spent time in both the prosecutor's office and as defense counsel, rotating through judges' offices at the municipal court.
D: Did the judge work for a private firm?	The judge spent a year and a half in an office with a group of friends in the Kroger Building in Cincinnati.
D: Has the judge represented an accused person and engaged in battles for discovery?	Yes.
D: The assistant defense counsel Lt. Cdr. Jacob Meusch argued as an appellate counsel in <i>United States v. Watkins</i> that the judge should have recused himself due to a failure to behave impartially in a court martial of a marine recruiter engaging in an inappropriate relationship with a recruit. The appellate bench agreed that the judge's comment that he would not "have the government pay to bolster the defense's evidence" was intemperate. Does the judge think the government should not pay to bolster defense case?	Judge defended his comment in that it was a specific issue on a specific case. He noted that there are rules allowing for the presentation of evidence and that the government pays for that in the system.
D: Is the judge willing to compel the appointment of defense experts where needed?	"I do it frequently." When asked to specify how frequently, the judge cited three in his last case, but did not have metrics of numbers granted and denied. "[E]ach request is based on its merits. You take the facts, you apply them to the law."
D: Another comment noted as intemperate indicated that a defendant should take the stand if the defense wanted to rebut government witnesses. Does the judge understand that "you have an absolute right not to incriminate yourself?"	Yes.

Questions:⁴	Judge's Answers:
D: Did these comments typify how the judge behaves when presiding over a contested judicial matter?	“No. I would not say that that case was my finest hour. [...] I was much younger.”
D: Is the judge able to treat Meusch neutrally despite his part in the earlier appeal?	Yes. It is the defense's job to appeal when necessary.
D: What was the name of the case the judge litigated involving the death of an Afghan national?	“I believe he lived. [...] He was shot, for sure. He was eventually, I believe, released from the hospital [...] That's why we charged it as an attempted murder.” The case was named <i>United States v. Blair</i> , involving Lt. Blair.
D: How did the judge come to take that case?	Judge was at Camp Lejeune, and it was assigned to him. It was complex, so it was assigned to him.
D: Did the judge meet with the victim?	No, the victim was never identified. With more questions, the judge clarified that the victim had a name, and it was recorded, but once he was released from the hospital he vanished.
D: Did the judge ever visit the crime scene?	No.
D: How did the case ultimately resolve?	Not guilty in the attempted homicide, but guilty about making a false official statement.
D: What sentence did the judge seek, and what sentence was ultimately laid?	Judge did not remember.
D: Was the case complicated by the difficulty of obtaining evidence from Afghanistan?	It was a complicating factor. The defense doing a site visit would put them in a dangerous and unsecured area. Judge did not remember any other issues.
D: Did the judge take a stance about a defense visit at the time? Why?	At the time, the judge was against the defense visit, for security and safety reasons.
D: Was Lt. Col. Jasper the defense counsel on the case?	Yes. Jasper might have been the one who went to Afghanistan.
D: Is the judge religious?	Judge acknowledged that he practices a religion.
D: Does the judge attend services?	Yes.
D: Is the judge Muslim?	No.
D: Does the judge's church take any stance on Islam?	No.
D: What is the judge's familiarity	Judge has taken classes prior to deployment and an undergraduate

Questions:⁴	Judge's Answers:
with Islam?	history of Islam course. He also learned from people he met in Iraq and Afghanistan.
D: Does the judge have any Muslim friends or family members?	No.
D: Is the judge a member of any clubs or organizations that discriminate on the basis of color or creed?	No. The only organization of which the judge is a part is “maybe the bar association.”
D: Has the judge ever presided over a case involving an accused who was a non-native English speaker? Involving an interpreter?	Yes, probably. Cases involving an interpreter definitely. Usually, the interpreters were for witnesses called by the accused, rather than for the accused.
D: Did the judge ever defend a non-native English speaker as a defense lawyer? Does he understand the level of delay for translation?	Judge did not recall defending someone who required translation but was familiar with the necessary delays.
D: Does the judge know anyone who was killed or injured in war in Afghanistan?	No.
D: Does the judge know anyone who was killed or injured in war in Iraq?	Judge knew a marine judge advocate who was part of the civil affairs detachment. Later in the deployment, that man was shot and injured. There were other marines in the battalion who were killed or injured, but the judge did not know them personally.
D: What happened to the marine judge advocate?	The man recovered, though it was a facial injury that left visible scars and a speech impediment. He goes around giving speeches. The judge has not seen or spoken with him in years, though they are “Facebook friends.” The judge has not attended his speeches.
D: What is the topic of the man's speeches?	Leadership.
D: What were the circumstances of the shooting?	The man had been on a civil affairs mission and was caught up in a drive-by shooting.
D: Does the judge know anyone who was killed or injured on 9/11?	No.
D: Does the judge know anyone who was killed or injured in a terrorist attack?	No.
D: What was the judge's role as battalion judge advocate for the	“I was the legal advisor for the battalion commander, and then, you know obviously for the rest of the battalion and the staff.”

Questions:⁴	Judge's Answers:
3 rd Battalion 2 nd Marines?	Judge was the only lawyer in the battalion of 900 people.
D: What were the judge's day-to-day responsibilities?	Judge paid claims for damages or rent. Judge handled disciplinary measures for the battalion and advised on the rules of engagement. Judge ensured the temporary holding facility complied with legal standards (these standards were aligned with the International Committee of the Red Cross requirements) for holding people for 72 hours.
D: Where was the judge based during deployment? What was the holding facility?	Al Habbaniyah/Camp Habbaniyah, near Taqaddum Air Base. It was a former British air base. The holding facility was the former brig that served the base. It looked like a jail, with cells, concrete walls, and a metal roof.
D: What was the size of the cells?	The cells were large, and there were six or eight of them.
D: What was the judge's typical first encounter with a detainee? Were detainees restrained?	Judge met the detainees the first time they were brought back to the camp. They were usually flex-cuffed and blindfolded. When asked clarifying questions, the judge noted that the blindfold was not a cloth, so it could have been blackened goggles.
D: Could the detainees still hear?	Yes. There was an interpreter providing them orientation for rules inside the facility at the same time.
D: Were the detainees treated in an ICRC compliant manner?	Yes.
D: Were the detainees supervised by military police?	Judge recalled that there was a sergeant of the guard who supervised the guard force.
D: Did the judge ever hear of detainees being mistreated?	Judge recalled hearing when Abu Ghraib broke but noted that his battalion had not sent detainees there. He never heard reports of mistreatment of his battalion's detainees.
D: Did the judge hear any derogatory terms used for detainees?	No. They were proactive against dehumanization. Detainees were always referred to by their numbers.
D: Did the sergeant of the guard ever discipline anyone for mistreating a detainee?	No. The sergeant did not have the authority to discipline, only to correct. At one point, a patrol base had captured a detainee, and before main base personnel could get out there, someone had slapped that detainee. The commander quickly addressed the problem and assigned non-judicial punishment. Judge recalled no other incidents but noted under question that he probably legally advised the commander on that one incident.
D: How long was the deployment?	Seven months, with the processing in and out.
D: There was a lot of fighting at that time? It was a kinetic	Yes.

Questions:⁴	Judge's Answers:
deployment?	
D: Was the judge ever directly involved in combat?	No.
D: Did the judge fire a gun while on the tour?	Not at the enemy. Only in pursuit of keeping the weapon ready for combat.
D: Did the battalion use terms like "hajji," "towel head," or "rag head?"	Judge remembered a detainee who called himself "Hajji," so that was occasionally a term. "Towel head" and "rag head" were not used at the battle operations center, but possibly junior soldiers out on patrols used them.
D: Did the judge correct the battalion for using derogatory terms?	Judge recalled the XO being particularly averse to derogatory terms, so probably corrected personnel.
D: Did the battalion use the term "terrorist?"	The personnel actively engaged in countering insurgent activity used "terrorist" and "insurgent" interchangeably when referring to suspects. In reaction to additional questions, the judge assured that the term "terrorist" was not applied to all Iraqis; it was applied based on behavior.
D: Did the judge ever hear military members saying things disrespectful to the Muslim faith?	Judge did not remember personally hearing it, but he was sure it happened. He preferred keeping company with the chaplain who ran the "He Brews" coffee shop, so it would be strange to hear someone disparaging faiths.
D: Did the judge pay claims to the area where he was based, or a wider area?	Judge paid claims anywhere in the battle space his battalion "owned."
D: Did the judge meet with individual Iraqis? If so, was the judge assisted by an interpreter?	Yes, and yes. There was a designated space on the base for such meetings, but sometimes he went to them if there was a rent payment or an ongoing relationship. In response to further questions, the judge confirmed that taking chai and sharing meals with Iraqis was a common thing.
D: Did the judge ever directly observe or participate in rescue operations for those injured or killed in combat?	Yes. The judge did not observe the decedent but was a member of the convoy.
D: Did the judge attend memorial services for the 14 Marines killed in action?	The entire battalion would have gone, so if the judge's duties allowed it, he would have gone too.
D: How long was the judge's second deployment in Iraq?	Seven months.
D: Where was the second	The deployment was mobile, near the Tigris River and Sinjar

Questions:⁴	Judge's Answers:
deployment based?	Mountain. The battalion built a berm around the end of a road in order to store fuel and have a central patrol point.
D: Is the judge aware of the accused's origins?	No.
D: The accused is from Mosul. Did the judge ever go to Mosul?	No.
D: What were the judge's duties during this second deployment?	Mostly the same, but no detainees. The Sunni "Awakening" had occurred, so the situation was more peaceful and cooperative.
D: How large was the judge's battalion on that deployment?	Approximately 600 people.
D: Was anyone killed or injured during that deployment? Was the judge involved in any combat?	Judge did not recall anyone being killed or injured. Judge was not involved in combat.
D: Was the judge involved in paying claims to locals on this deployment?	Judge assumed that was one of his responsibilities, but the mobility of the battalion meant they did not incur rent and they never damaged someone's property.
D: In what capacity did the judge interact with the locals?	When on patrol with the commander, the judge had tea with local leaders. His battalion also had a program for distributing barley seed to the locals to plant. There was also the man Hajji, who lived by a cellular phone tower, so when the battalion had a project to get the tower running, they frequently went to the man's house.
D: Was the U.S. military trying to build better local relationships?	No, the relationships were already good. This was developing infrastructure and local capacity for governance. What the battalion primarily did was anti-smuggling operations by the Syria border.
D: What governance areas were the local officials the judge met with responsible for overseeing?	Small cities and towns. Personnel above the battalion in hierarchy were responsible for anything larger.
D: Did the judge ever discuss repression of the Ba'ath regime over tea with the locals?	No. The judge occasionally discussed the overarching tension between Sunni and Shia Muslims and the Kurds.
D: Did the judges engage with all three groups?	Judge did not know if he ever met a Shia Muslim, but he did know Sunni Muslims and some Kurds. He described the differences between Sunni and Shia as similar to different branches of Christian Protestantism, being a belief, not an ethnicity.
D: When this battalion took people into custody, what did it do with them?	The battalion never took anyone into custody. The battalion backstopped and informed the border patrol, and once intercepted some cigarette smugglers, sending them back into Syria.
D: Did the judge witness any combat in that deployment?	No. A shooting in Baa'j involved another unit, and the judge's battalion performed security while that was resolved, but there was no combat.
D: Did the judge or commander	No.

Questions:⁴	Judge's Answers:
hear any issues of disrespect toward the local populace or Islam?	
D: How long was the judge's deployment in 2012 to Afghanistan as regimental judge advocate for the Regimental Combat Team 6?	Six months, as the judge went in the middle of the year-long deployment to replace a different judge advocate who was rotating back for school.
D: What was the Regimental Combat Team 6 doing in Afghanistan?	Initially, it was supporting and directing the three battalions under the regiment at Delaram Base in Helmand Province, but after a few weeks it transitioned to closing Delaram Base and transitioning to Camp Leatherneck.
D: Did the judge ever stay at Camp Leatherneck?	Judge was at Camp Leatherneck for approximately three months
D: What were the judge's duties while at Delaram Base?	Advise the regimental commander, ensure everyone understood the rules of engagement, resolve issues like someone failing a physical fitness test.
D: Did the judge ever deal with matters involving military disrespect toward locals?	No.
D: Was the judge involved in combat there? Did the judge observe any combat?	No.
D: Did Camp Leatherneck have its own detention facilities?	Judge thought so, and that it was located somewhere between Camp Leatherneck and Camp Bastion, but he never visited or observed the way detainees were treated there.
D: Has the judge read the charge sheet for this case?	Yes.
D: Has the judge ever been to any of the locations in Afghanistan that are cited on the charge sheet?	No. Per further questioning, judge was never in Chigan, L'Wara, or Shkai.
D: Did any members of the regiment die or become injured in combat?	No, though the judge was at Camp Leatherneck during an incursion that damaged several planes in a Harrier squadron and may have killed the squadron commander. That attack was on the other side of the camp than the judge.
D: Did the judge ever have to take cover, at Camp Leatherneck?	No.
D: Did the judge's fellow Marines use any derogatory terms for Afghans or Taliban?	No. In fact, most of judge's duties were in the command center, not on patrol or interacting with enlisted soldiers or the populace.

Questions:⁴	Judge's Answers:
D: Separate from deployments, has the judge had any complaints filed against him as an attorney, judge, or officer? Have any Inspector General complaints named him?	No, not that he is aware of, though he acknowledged that sometimes the subject is not informed when that happens.
D: The judge's office is near Captain Angela Tang's. Was the judge aware that she had served on the CMCR?	No.
D: Has the judge discussed military commissions with Tang?	Only that he is a judge on the commissions, and that Tang, as the Northern Circuit Judge, may have to find a substitute judge for some cases because the military commissions take priority.
G: Does the judge acknowledge any past or ongoing frequent personal relationship with anyone identified from either side?	No.
G: Given reflection on his experiences and biography, is there anything in it or any way that the judge feels that renders him unable to impartially and faithfully perform his duties as the military judge?	Judge chose to wait to hear any challenges to determine if there was any actual or implied reason he could not impartially try the case.