

Monday, 15 March 2010

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United States v. Hutchins

The appellant was convicted, contrary to his pleas, by a panel of members with enlisted representation sitting as a general court-martial of one specification of conspiracy, one specification of false official statement, one specification of unpremeditated murder, and one specification of larceny in violation of Articles 81, 107, 118, and 121, Uniform Code of Military Justice, 10 U.S.C. §§ 881, 907, 918 and 921. The issues to be argued before the court, en banc are:

I. WHETHER THE ABSENCE OF CAPTAIN BASS, USMC, AT TRIAL RESULTED FROM:

A. HIS EXCUSAL WITH THE APPELLANT'S EXPRESS CONSENT,

B. HIS APPLICATION FOR WITHDRAWAL RULED UPON BY THE MILITARY JUDGE FOR GOOD CAUSE SHOWN,

C. OTHER GOOD CAUSE SHOWN ON THE RECORD, OR

D. SOME OTHER MECHANISM TO INCLUDE, BUT NOT LIMITED TO, IMPROPER/IRREGULAR WITHDRAWAL OF COUNSEL (*See United States v. Acton*, 38 M.J. 330, 337 (C.M.A. 1995)), OR INEFFECTIVE ASSISTANCE OF COUNSEL?

II. IF CAPT BASS' ABSENCE FROM TRIAL STEMMED FROM OR THROUGH SOME MECHANISM OTHER THAN (A) - (C) ABOVE, MAY THIS COURT TEST THE RAMIFICATIONS OF HIS ABSENCE FOR PREJUDICE? IF SO, HOW?

Wednesday, 17 March 2010

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United States v. Warner

A panel of members with enlisted representation, sitting as a general court-martial, convicted Appellant, contrary to his pleas, of attempted premeditated murder, solicitation of another to commit murder, and murder-for-hire under 18 U.S.C. § 1958, in violation of Articles 80, and 134, Uniform Code of Military Justice (UCMJ), 10 U.S.C. §§ 880, 934. The members sentenced Appellant to five years confinement, reduction to pay grade E-1, and a dishonorable discharge. The issues to be argued before the court are:

I. WHETHER APPELLANT'S CONVICTION TO ATTEMPTED MURDER IS FACTUALLY AND LEGALLY INSUFFICIENT DUE TO THE ALLEGED OVERT ACTS BEING MERELY

PREPATORY IN NATURE AND NOT SUBSTANTIAL STEPS TOWARD COMMISSION OF THE OFFENSE.

III. WHETHER THE MILITARY JUDGE ABUSED HIS DISCRETION BY PERMITTING IMPERMISSIBLE MRE 404(b) PROPENSITY EVIDENCE TO BE PRESENTED TO THE MEMBERS.