

PHOTO: JEFF PATERSON

Carolyn Ho and Robert Watada (*right*) are still waiting to hear what the future holds for their son, 1st Lt. Ehren Watada (*center*).

Dear Robert Watada,

Thank you for being my facebook friend. I am the Resisting GI with a hobby of constitutional law currently specializing in the area of war powers. I the Resisting GI, got involved in your son's case by filing in May of 2007 as an interested party prior to the double jeopardy saga and that was copied to the USDC of Seattle, Washington and the USDC of Honolulu, Hawaii.

U.S. District Judge Benjamin H. Settle ruled that a second trial would violate the Fifth Amendment double jeopardy clause of the Constitution. It has left Lt. Watada in a state of limbo as the Army contemplates at their leisure to file their Appellate Opening brief for preventing the federal judge's injunction from becoming permanent. The U.S. Govt. still wants to put Lt. Ehren Watada behind bars!

I wrote what is to follow infra in May of 2007. The next posting will be about the worst of the lot of illegal kangaroo courts-martial; the most important case of all to know about that actually convicted a decorated war veteran/hero! Stay tune for that one as that judicial story in federal appellate brief format demonstrates how the United States completely destroyed the Bill of Rights of our Constitution.

ISSUED LEGAL REPORT  
FOR RESISTING SOLDIERS OF CONSCIENCE  
BY ORIGINAL INTENT OF THE U.S. CONSTITUTION

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## **Soldiers of Conscience Reasonable Doubt Jurisdiction and Standing**

**Reasonable Doubt**<sup>1</sup>, Jurisdiction<sup>2</sup>, Standing<sup>3</sup> and United States Supreme Court (USSC) Original Jurisdiction<sup>4</sup> all have powerful judicial attributes within exclusively belonging to all **Resisting Soldiers of Conscience** for restoring back their Civil Rights and for providing **42 U.S.C. § 1983 (Title 42 Section 1983 of the United States Codes)** retributions to all unconstitutionally court-martial convicted **Resisting Soldiers of Conscience!** This **Power of Law** is destined to unify all **Resisting Soldiers of Conscience** authoritative signatures for placing the unconstitutional (2003-????) Iraq war on trial in the USSC.

America is witnessing our **Resisting Soldiers of Conscience** prosecuted contrary to the fundamentals of jurisdiction. Jurisdiction must be established in a proper Court prior to the Government prosecuting our **Resisting Soldiers of Conscience** defending the **United States Constitution** and not to have done that is judicially incorrect as the initial conviction beyond a **Reasonable Doubt** is required before a public jury within a U. S. Federal Court! However, all convictions against **Resisting Soldiers of Conscience** have been by non jurisdictional court-martials, a class action issue as it has stolen our Soldiers' **Bill of Rights** our fighting Soldiers of the past and present have defended and are currently defending with their lives!

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<sup>1</sup> **UCMJ art. 51(c)(2)** “if there is a **reasonable doubt** as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted”. **UCMJ art. 51(c)(4)** “the burden of proof to establish the guilt of the accused beyond a **reasonable doubt** is upon the United States.”

<sup>2</sup> “The (federal) district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” **28 U.S.C. § 1331**

<sup>3</sup> The legality of an order sending men to participate in an 'undeclared war' may be raised by someone, to whom such an order has been directed, see *Mottola v. Nixon*, 464 F.2d 178, 179 (9th Cir. 1972) (emphasis added). *Holtzman v. Schlesinger*, 484 F.2d 1307, 1315 (2d Cir. 1973) (service members with "orders to fight," have STANDING to challenge legality of military activities).

<sup>4</sup> "In all Cases affecting Ambassadors, other public Ministers and Consuls, the supreme Court shall have original Jurisdiction." **U.S. Const. art. III, § 2, cl. 2.** Merriam-Webster Dictionary states a public Minister is a high officer of state who heads a division of government and/or is a diplomatic representative to a foreign state. See footnote 5 for knowing why there is undisputable USSC Original Jurisdiction.

When a [Resisting Soldiers of Conscience](#) defends the [Constitution](#) and is accused by the Government that defense must be punished, the initial conviction must be before a Jury of a U.S. Federal Court and must go beyond the established **reasonable doubt** of this alleged unconstitutional (2003-????) Iraq War! The War was alleged unconstitutional to the USSC on March 18, 2003 by Six Congressmen, Military Soldiers & their Parents & [74 Concerned Law Professors](#) pursuant to *Doe v. Bush*, 323 F.3d 133 (1st Cir. 2003)<sup>5</sup>.

## **World War II Intro to this Hobbyist Constitutional Counsellor**

Hi! I am an X U.S. Army Peace Time Soldier of the eighties, so I personally do not have the blood and guts feelings for what combat is all about. But I do wish to share a blood and guts memory about my Father who is an honorary Silver Star, Purple-Heart decorated World War II HERO with three beachheads to his credit! I was just a kid and my DaD was cutting grass into the bushes when a stray cat accidentally got into the blades and the blood and guts went everywhere! I saw my World War II HERO turn white as a ghost and a grown Man breakdown and cry for an hour. I was just a KID but old enough to understand that WAR was not the dramatics I was use to seeing on TV and that the decision to go to WAR is one that should be taken by all concerned! Onwards with my life after my time with the U.S. Army, I became a Middle East Oil Field Engineer and picked up the Hobby of studying Constitutional Law that started in the Early Nineties, some people read novels while I read Constitutional Law. My U.S. Army oath to defend the [Constitution](#), my hobby and guess what (?); here I am sharing my Constitutional Law Story with YOU!

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<sup>5</sup> *Doe v. Bush*, 323 F.3d 133 (1st Cir. 2003) on March 18, 2003 was an in session Federal Appellate Case one day after the unconstitutional Declaration of War by the president and one day before the first bunker buster was dropped on Baghdad. At that point in time, it became a Case alleging to the United States Supreme Court the upcoming war needs stopping as it is unconstitutional; a Case that definitely invoked Exclusive Original United States Supreme Court Jurisdiction as it was a docketed in session Case "drastically" affecting all the world's Ambassadors, other public Ministers and Consuls to the United Nations! This established USSC Original Jurisdiction has been and currently now is the established **USSC Reasonable Doubt** of a [Resisting Soldier of Conscience](#).

## Sharing my Constitutional Law Story

It is a story that explains how all three Branches of Government have dishonored the **United States Constitution** that somewhat excludes the sleeping USSC. So here it comes! I was really into my Government when the year 2003 came around and by the **Federalist Papers**<sup>6</sup>, **Article I** statutes, U.S. Supreme Court Case Law, grass roots literature on our **Constitution** and those discernable words of English from the **Constitution**, I felt strongly that I knew exactly how our constitutional framers wanted the crisis to go down between the United Nations, Iraq and the United States Government! And right up to March 17, 2003 I was standing strong with the president and the 108th Congress as our **Constitution** was still honored! And then BOOM! The president breaks the United Nations (**Article II** by **Article VI** Supreme Law Treaty)<sup>7</sup> and issues a 48-hour Declaration of War to Iraq that only the 108th Congress had the authority to do pursuant to **Article I!** **Article I**, **Article II** and **Article VI** violated! Meanwhile in the Boston Appellate Court, military soldiers & their Parents & Congresspersons: John Conyers (Michigan), Dennis Kucinich (Ohio), Jesse Jackson (Illinois), Sheila Jackson Lee (Texas), Jim McDermott (Washington), José E. Serrano (New York); and **74 Concerned Law Professors** by their Brief in Support; ALL OF THEM had George W. Bush and Donald H. Rumsfeld in the Boston Appellate Court stating & filing all sorts of prestigious pleadings with **authorities** (**authorities are in red in this document**) conferring to the U.S. Government, you can not Declare War and aggressively Invade Iraq without a formal vote from the 108th Congress as the specific terms of the

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<sup>6</sup> The Federalist Papers were a series of articles written under the pen name of Publius by Alexander Hamilton, James Madison, and John Jay. Madison, widely recognized as the Father of the Constitution, would later go on to become President of the United States. Jay would become the first Chief Justice of the US Supreme Court. Hamilton would serve in the Cabinet and become a major force in setting economic policy for the US. The entire purpose of The Federalist Papers was to gain popular support for the then-proposed Constitution. Some would call it the most significant public-relations campaign in history; it is, in fact, studied in many public relations classes as a prime example of how to conduct a successful campaign.

<sup>7</sup> **Article II** requires two thirds approval of an in session Senate for breaking the United Nations treaty, besides that, **Article VI** states all Treaties shall be the supreme Law of the Land.

**107th Congressional 2002 October Resolution**, for the authority to use Military Force, had become outdated and meaningless as so many drastic changes had happened, in a nutshell, the **2002 October Resolution** was not a March 17, 2003 108th Congressional treaty breaking Declaration of War! The **Article I** Boston Appellate Court on March 18, 2003 got confused as that Case was too BIG for them to handle as confirmed by **Article III**, as it should have been handed immediately to the USSC pursuant to **28 U.S.C. § 1291**<sup>8</sup>, sadly to say the Boston Appellate Court did not have their constitutional thinking caps on and did not know on March 18, 2003 while in session they had an obligated oath to the **Constitution** for restraining the president from dropping that first Iraqi bunker buster and to have handed the Case to the United States Supreme Court where the only jurisdiction existed for facing the biggest monumental Federal Question the third branch of government has ever faced in the History of America! All this in a matter of 48 hours! So *Doe v. Bush*, 323 F.3d 133 (1st Cir. 2003) violated U.S. Supreme Court Case Law, *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U. S. 50 (1982) (Congress may not give away **Article III** "judicial" power to an **Article I** judge).

### **Knowledgeable Constitutional Conscience Alleges Unconstitutional War**

Knowledge gives a foundation to our conscience as received from our parents, mentors, schools, and all of our experiences and thus I pray this constitutional knowledge answers what your conscience is asking you about our **Constitution** and this unconstitutional WAR! I have reconfirmed this Allegation, that the WAR is unconstitutional to the USSC eleven to twelve times from 2003 to 2005 and when the Supreme Court Clerk would not take any of my papers to a Justice by Application, I took the Supreme Court Clerk to the USDC of Kansas and appealed it to the Denver Appellate Court and petitioned for all Democratically appointed Judges

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<sup>8</sup> **28 U.S.C. § 1291**: "The courts of appeals shall have jurisdiction of appeals from all final decisions of the district courts except where a direct review may be had in the Supreme Court." Direct review was mandated by Exclusive Original Jurisdiction of the United States Supreme Court, thus the (2003-????) Iraq War was officially alleged on March 18, 2003 to the USSC as contrary to the U.S. Constitution.

to hear my oral arguments! Somehow, even though statistically impossible, I was awarded a panel of three Republican appointed Judges who refused to hear me verbally and ruled against my Opening Brief with hogwash that was simply an embarrassment to American Jurisprudence! The paradox is that I won so BIG but how could one individual win so BIG against the most powerful government on the face of this earth? So I lost, as the Denver Appellate Court refused to order that **Amendment I** breaking clown of a Supreme Court Clerk to take my Opening Brief Application to a U.S. Supreme Court Justice. That Opening Brief by Law should have been officially read by Justice Stephen G. Breyer!<sup>9</sup>

### **A Constitutional Counsellor Tears Grow Stronger**

Loosing at Denver, Colorado the Federal Appellate Case 06-3003 was sustainable even though I felt really down and cried real tears, but I sure was not put in Jail for loosing when I actually had WON! If I had been put in Jail for this three year WIN/lost judicial exercise then something would have been terribly wrong! And you know what I found out that makes my constitutional tears grow stronger? If I were back in the U.S. Army, like I was in the eighties, I would have been put in JAIL along with other [Resisting Soldiers of Conscience](#) for refusing to fight in an alleged unconstitutional WAR! Technically and judicially alleged to the United States Supreme Court one day before the WAR broke out pursuant to *Doe v. Bush, 323 F.3d 133 (1st Cir. 2003)*. And there is the judicially established **Reasonable Doubt** as all [Resisting Soldiers of Conscience](#) have a **Reasonable Doubt** not to fight in this alleged unconstitutional war until the USSC wakes up out of their unconstitutional sleep and lets America know if this War is Illegal or NOT? A Case that will take several months to get through with many war protesting organizations submitting their friend of the Court Briefs and the climax will be the

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<sup>9</sup> Case 06-3003 Denver Appellate Opening Brief is available along with a prerequisite reading submission to the unprecedented [www.WarTribunal.org](http://www.WarTribunal.org) two-day Citizens' Hearing held at Tacoma, Washington on January 20-21, 2007 where more than 600 citizens joined a distinguished tribunal panel in listening to testimony, the resultant thereof confirmed the illegality of the US invasion of Iraq.

Extended Oral Arguments covered by the Media beamed into all the living rooms of the world!

Now that is what I call a constitutional drama that will replace (somewhat) the Constitutional Drama that America was robbed of; the 108<sup>th</sup> Congress rising up as constitutionally mandated and to have countered the intimidating well planned 48-hr unconstitutional sleeping PILL and to have come into session in March of 2003 for honoring our **Constitution** and to have either backed or stopped the Declaration of War to Iraq by the president!

### **Reasonable Doubt of a Resisting Soldier of Conscience**

You are innocent until proven guilty beyond a **Reasonable Doubt** in the United States and the **Reasonable Doubt** of any **Resisting Soldier of Conscience** has been established by the official allegation to the USSC that this WAR is unconstitutional as recorded in the Boston Appellate Court, a **Reasonable Doubt** rising under our **Constitution** and thus the only **28 U.S.C. § 1331** Jurisdiction available for addressing that **Reasonable Doubt** is with a Jury of a Federal Court with all **Sixth Amendment** witnesses!<sup>10</sup> So any **Resisting Soldier of Conscience** that has been court-martial convicted was convicted contrary to the **U.S. Constitution** and any **Resisting Soldier of Conscience** the U.S. Government wants to accuse of any wrong doing for resisting orders to fight, must do so initially in a Federal Court and since there are thousands of AWOL **Resisting Soldiers of Conscience**, it is already a HUGE Class Action CASE destined for the United States Supreme Court!

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<sup>10</sup> **U.S. Const. amend. VI** "The accused shall enjoy the right to a speedy and public trial, by an impartial jury and have compulsory process for obtaining **witnesses** in his favor." Lots of **renowned witnesses** to subpoena i.e. Rep. John Conyers (MI), Rep. Dennis Kucinich (OH), Rep. Jesse Jackson, Jr. (IL), Rep. Sheila Jackson Lee (D-Texas), Rep. Jim McDermott (WA), Rep. José E. Serrano (D-N.Y.), and **74 Concerned Law Professors**. Witnesses on judicial record warning the Third Branch that the 2003 Iraq War will be constitutionally ILLEGAL see *Doe v. Bush*, 323 F.3d 133 (1st Cir. 2003); a tremendous Reasonable Doubt!

## **A United States Supreme Court Case Is To Be Had**

The Supreme Court requires Standing (check yes) and a strong vested interest in the issues of the case and its outcome (check yes)! The Government has stolen our [Resisting Soldiers of Conscience](#) Civil Rights and jailed them for defending the **U.S. Constitution**. By USSC Case Law, the two part test<sup>11</sup> for USSC docketing is easy to pass by our court-martial illegally convicted and/or sought [Resisting Soldiers of Conscience](#)!

### **Original Jurisdiction Petition to the United States Supreme Court**

I solicit for HELP<sup>12</sup> for uniting all [Resisting Soldiers of Conscience](#) signatures on One Petition for demanding their United States Supreme Court Case provide retributions to all previously unconstitutionally court-martial convicted [Resisting Soldiers of Conscience](#), provide Amnesty to all [Resisting Soldiers of Conscience](#) currently sought or in the process of court-martial, and to finally answer the established USSC Federal Question, is this War Constitutionally Legal or NOT?

### **Intro to U.S. Army 1st Lieutenant Ehren K. Watada**

On June 22, 2006, Lt. Ehren K. Watada publicly refused deployment to the Iraq War and occupation. He faces court martial and up to 6 years imprisonment for speaking out against this alleged unconstitutional war, see <http://www.thankyoult.org/>. Ehren K. Watada has inalienable rights that all past and present fighting soldiers have protected with their lives for ensuring these rights stay inalienable! And if these rights are taken away from Ehren K. Watada,

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<sup>11</sup> The plaintiff must allege: "(1) that he personally suffered actual or threatened injury, and (2) that the injury can be traced to the challenged action and is likely to be redressed by a favorable decision." *Valley Forge Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464, 70 L.Ed. 2d 700, 102 S.Ct. 752 (1982); *Allen v. Wright*, 468 U.S. 737, 751, 82 L.Ed. 2d 556, 104 S.Ct. 3315 (1984).

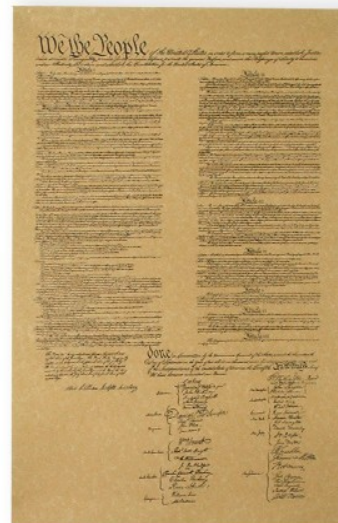
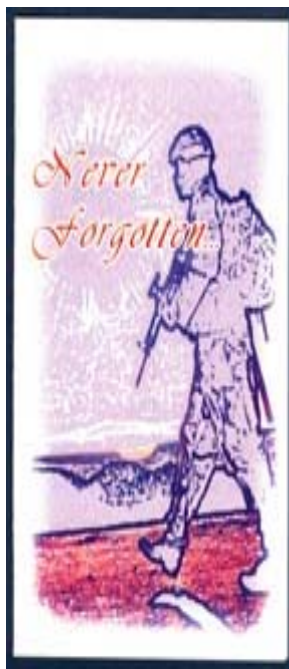
<sup>12</sup> I am soliciting everywhere for finding and/or inducing a United War Protesting Website to carry out the intent of this solicited document so that all [Resisting Soldiers of Conscience](#) will become aware so that all their signatures may be electronically gathered, counted and thousands of [Resisting Soldier of Conscience](#) signatures may be presented to the United States Supreme Court. An awesome dream requiring prayed for HELP, PLEASE HELP!

as they have been from other [Resisting Soldiers of Conscience](#), then why should any Soldier fight in this Iraq War? And by [FRCvP 23](#) Class Action Law Lt. Watada is already united with all [Resisting Soldiers of Conscience](#) and all closeted [Resisting Soldiers of Conscience](#) with orders to fight in Iraq! This [Resisting Soldier of Conscience](#) Constitutional Law Hobbyist with a constitutional oath to protect the [United States Constitution](#) shares his filing infra that was raised not only for Ehren K. Watada, but for all [Soldiers of Conscience](#).

### Surround The Lies With Our Patriotism To The U. S. Constitution



*We the People* **WILL NOT**



UNITED STATES ARMY TRIAL JUDICIARY  
FOURTH JUDICIAL CIRCUIT  
FORT LEWIS, WASHINGTON

<b>UNITED STATES</b>	)	<b>Filing of Interested Party</b>
	)	
v.	)	<b>In defense of 1LT Ehren K. Watada.</b>
	)	
<b>1LT EHREN K. WATADA</b>	)	<b>Motion For A Dismissal</b>
<b>U.S. Army</b>	)	<b>Due To Lack Of</b>
<b>HHC, I Corps</b>	)	<b>Subject-Matter Jurisdiction</b>
<b>Fort Lewis, WA 98433</b>	)	<b>Pursuant To</b>
	)	<b>Uniform Code Of Military Justice</b>
	)	
	)	
	)	<b>12 May 2007</b>

**MOTION FOR A DISMISSAL DUE TO LACK OF SUBJECT-MATTER JURISDICTION**

**Interested Party<sup>1</sup> Filing**

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<sup>1</sup> Watada joins many other Soldiers of conscience who, have refused to go, or to return to Iraq due to its alleged illegality that continues not to be addressed within the Third Branch causing many court-martial convictions by non-judicial military courts. Over 8,000 Soldiers in protest are absent without leave (AWOL) and have no judicial means to present their side. 1,300 active duty military personnel have signed an “appeal for redress” calling for the Bush administration to withdraw the U.S. military from Iraq. So by **FRCvP 23** Class Action Law there are many other Interested Parties to this case.

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UNITED STATES ARMY TRIAL JUDICIARY  
FOURTH JUDICIAL CIRCUIT  
FORT LEWIS, WASHINGTON

UNITED STATES	)	Filing of Interested Party
	)	
v.	)	In defense of 1LT Ehren K. Watada.
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1LT EHREN K. WATADA	)	Motion For A Dismissal
U.S. Army	)	Due To Lack Of
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	)	Uniform Code Of Military Justice
	)	
	)	12 May 2007

**MOTION FOR A DISMISSAL DUE TO LACK OF SUBJECT-MATTER JURISDICTION**

COMES NOW this Interested Party as one of millions of parens patriae guardians of our military soldiers and motions to this Court to grant a DISMISSAL to the above captioned proceedings, **so motioned!** UCMJ art. 1(9) allows any person to direct the charges and thus any person may counter those charges in the interest of justice in the worst of times when the defense of the accused is against the President and the sleeping (108-110)th Congress. The redress sought for the accused is the relief “from amenability to trial by court-martial by reason of the termination of that status.” UCMJ art. 3(a).

**ARGUMENTS FOR DISMISSAL OF CAPTIONED CASE**

UCMJ determines that Military Courts are only to address plenary issues of the military as their powers are exclusively controlled by the President and the authorities reporting to him through his chain of command, “under such regulations as the President may prescribe, and under such additional regulations as may be prescribed by the Secretary concerned,” UCMJ art. 15(a). Jurisdiction is required to be discernable in the Federal Courts while within a Military Court, jurisdiction is left with the wishes of the President “under such limitations as the President may prescribe,” UCMJ art. 18. UCMJ art. 18 is not a discernable jurisdictional code covering the

raised constitutional dimensions of the captioned case and may not be perverted into eliminating a soldier's **Bill of Rights** by "pretrial, trial and post trial procedures prescribed by the President", **UCMJ art. 36(a)**. The President through his chain of command has exclusive control over military judges "subject to regulations of the Secretary concerned," **UCMJ art. 26(a)**. "The military judge of a general court-martial shall be designated by the Judge Advocate General", **UCMJ art. 26(c)**. The President has exclusive control over the defense and evidence of the accused "in accordance with such regulations as the President may prescribe", **UCMJ art. 46**. This exclusive presidential control brings forth a huge conflict of law and an unbearable self incriminating conflict of interest to the accused as his constitutional dimensional **sixth amendment** reasonable doubt defense is the President's alleged unconstitutional mismanagement of the illegal 2003 Iraq War.

**UCMJ art. 18** does not allow the military courts to steal congressionally legislated discernable jurisdictional responsibilities of the Federal Courts to address the raised issues arising under the **United States Constitution** as **28 U.S.C. § 1331** states, "The (federal) district courts shall have original jurisdiction of all civil actions arising under the **Constitution**, laws, or treaties of the United States." The right of the federal courts to handle all cases arising under the **Constitution** is the basis of the Supreme Court's right to declare laws of Congress unconstitutional and to overrule unconstitutional abuse of Executive war powers, see *Youngstown Sheet & Tube Co., et al. v. Sawyer*, **343 U.S. 579 (1952)**. If such exclusive rights held by the Federal Courts are not ascertained from the captioned case, the lost civil rights of our soldiers will become a federal judicial blunder as these civil rights are secured under the jurisdictional responsibility of the Federal District Courts, "The (federal) district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person to recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights." **28 U.S.C. § 1343 (a) (4)**. Acts of Congress of relevance comes

directly from the **Constitution** our soldiers by oath are required to defend. “The Trial of all Crimes shall be by Jury”, **U.S. Const. art. III, § 2, cl. 3**. “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury<sup>2</sup> of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses<sup>3</sup> in his favor, and to have the Assistance of Counsel for his defence.” **U.S. Const. amend. VI**.

Our soldiers are U.S. citizens with inalienable civil rights and when these civil rights are deprived under the color of military law, it gives rise to an action for injury, see (**18 U.S.C. §§ 241, 242**); (**28 U.S.C. § 1443**) & (**42 U.S.C. §§ 1981, 1983, 1985**). **42 U.S.C. § 1983** states, "Every person who, under color of any statute, ordinance, regulation, custom, or usage subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the **Constitution** and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress!". A right to a trial by a fair and impartial public jury is the foundation of American Jurisprudence and thus it is requested that the proper authority to take immediate steps to determine what disposition should be made in the interest of justice pursuant to **UCMJ art. 30(b)**. Disposition by law is the transfer to a proper jurisdictional authority pursuant to the mandated straightforward legislated federal jurisdiction as the care of a soldier's **Bill of Rights**

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<sup>2</sup> How may a selected group of Military Officers with drilled in allegiances to the President be an impartial jury when the constitutional dimensional reasonable doubt defense of the accused is the President's unconstitutional abuse of his War Powers? A defense this Court will not and may not hear as this court does not have subject-matter jurisdiction on the sixth amendment compulsory defense of the accused.

<sup>3</sup> Rep. John Conyers (D – MI) 14th Congressional District of Michigan, Rep. Dennis Kucinich (D-OH) 10th Congressional District of Ohio, Rep. Jesse Jackson, Jr. (D-IL) 2nd Congressional District of Illinois, Rep. Sheila Jackson Lee (D-Texas) 18th Congressional District of Texas, Rep. Jim McDermott (D - WA) 7th Congressional District of Washington State, Rep. José E. Serrano (D-N.Y.) 16th Congressional District of New York, and **74 Concerned Law Professors**. Witnesses on judicial record warning the Third Branch that the 2003 Iraq War will be constitutionally ILLEGAL see *Doe v. Bush*, 323 F.3d 133 (1st Cir. 2003); a tremendous Reasonable Doubt on behalf of the accused!

clearly rests with a Jury of a Federal Court federally defined as a cross section of the community, without regard to race, gender, national origin, age or political affiliation. A military jury does not even come close; not even in the same ballpark and if the captioned case continues on in a mere military tribunal, it represents to all soldiers the complete loss of their civil rights; totally and constitutionally unacceptable!

If this court-martial proceeds without jurisdiction to address the raised constitutional dimensional defense, it becomes a compulsory self-incrimination of the accused, prohibited by **UCMJ art. 31** as within a non-jurisdictional military court the charges by the accuser and the **sixth amendment** defense against those charges are out of the military court's jurisdiction that further collaborates United States witnesses to coerce, to unlawfully influence and to induce the jurist panel of selected officers to be a part of this **UCMJ art. 31** prohibited self-incrimination, a panel with bias obligations by their military allegiance to the President. The constitutional oath of the accused becomes a constitutional dimensional conflict of law rising under the **Constitution** and thus residual constitutional jurisdictional codes gives exclusive jurisdictional authority to the federal judiciary; by **28 U.S.C. § 1331** federal jurisdiction on the raised constitutional dimensions is mandated and thus the supplemental jurisdictional code **28 U.S.C. § 1367(a)** establishes federal exclusive jurisdiction to all charges the accuser has alleged on behalf of the United States. Overriding federal jurisdiction with a military court's lack of jurisdiction is a serious judicial error and thus by **UCMJ art. 69(b)** would require the Judge Advocate General to set aside any punishments and be responsible on behalf of the U.S. for all **42 U.S.C. § 1983** retributions.

It is imperative to determine which court has jurisdiction before an accuser raises charges and thus a thorough investigation of this jurisdictional matter is required by the convening authority in the interest of justice and jurisprudence discipline pursuant to **UCMJ art. 32(a)**. On that investigation it will be found that **UCMJ art. 32(b)** will be violated if a non jurisdictional military court proceeding is allowed as it will be impossible for the accused to

present his **U.S. Const. amend. VI** constitutional dimensional reasonable doubt defense violating the words of **UCMJ art. 32(b)** to the right of the accused to “present anything he may desire in his own behalf either in defense or mitigation”. And if the investigation is prematurely completed without a thorough investigation of these raised jurisdictional concerns, then **UCMJ art. 32(c)** dictates a demand for further investigation to offer new evidence. The requirement for a thorough jurisdictional investigation is binding on the convening authority and all court officers pursuant to **UCMJ art. 32(d)**. That jurisdictional investigation is explicit by **UCMJ art. 34(a)(3)** as it requires the convening authority to have in writing from the staff judge advocate that “a court-martial would have jurisdiction over the accused and the offense.” Considering the constitutional dimensions as raised, the advice of the staff judge advocate to the convening authority is to take into consideration that these specifications are out of the jurisdictional realm of a military court and thus cannot conform to the substance of the evidence as constitutional dimensions and our soldiers’ **Bill of Rights** are at stake requiring a prudent formal corrections pursuant to **UCMJ art. 34(c)**. This jurisdictional concern is required to be communicated by the convening authorities to the staff judge advocates, legal officers, Judge Advocate General pursuant to **UCMJ art. 6(b)**.

USSC Substantive Due Process demands uniformed procedural rights to maintain the inalienable rights of a U.S. soldier’s civil rights. In the captioned case a military court is unable to meet the requirements of **UCMJ 36(b)** uniformity as non jurisdictional authority over the raised constitutional dimensions requires a non jurisdictional military trial to force on the Defendant to accept probative hearsay evidence that forbids Defendant’s review and prohibits Defendant’s **sixth amendment** compulsory defense, that establishes grounds for non uniformity contrary to recent U.S. Supreme Court Case Law as confirmed by Justice John Paul Stevens’ opinion for the Court in ***Hamadan v. Rumsfeld*, 126 S.Ct. 2749 (June 29, 2006)**. This ruling has

far reaching ramifications that reinforces the **Geneva Convention**, i.e. the **Common Article 3**<sup>4</sup>.

And it solidifies the incorporation of other treaties, notably the UN Charter that was violated by the U.S. aggressive invasion of Iraq in 2003. The **U.S. Army's Field Manual 27-10** states by **Chapter 1, Section I(7)(b)**, “under the **Constitution of the United States**, treaties constitute part of the supreme Law of the Land by U.S. Const. art. VI, cl. 2. In consequence, treaties relating to the law of war have a force equal to that of laws enacted by the Congress. Their provisions must be observed by both military and civilian personnel with the same strict regard for both the letter and spirit of the law which is required with respect to the **Constitution** and statutes enacted in pursuance thereof.” **FM 27-10** and a soldier's oath to the **U.S. Constitution** determines a soldier is required to discern constitutional war power dimensions that only a jury of a Federal Court may jurisdictionally discern as punishable or not. When a soldier of conscience makes these constitutional dimensional war power discernments for upholding a soldier's constitutional oath, it becomes contrary to the **Bill of Rights** to allow arbitrary punishment by non jurisdictional military courts as the **Bill of Rights** is inclusive within the substantial rights of the accused and disregarding these substantial rights is an Error Of Law prohibited by **UCMJ art. 59**. An error left unchecked is stealing a soldier's substantial rights that are essential liberties. *Duncan v. Kahanamoku*, 327 U.S. 304, 335 (1946) (Murphy, J., concurring) (quoting *Ex parte Milligan*, 71 U.S. 2, 120-21 (1866)). As the Supreme Court noted in a different era, “‘war power’ cannot be invoked as a talismanic incantation . . . Even the war power does not remove constitutional limitations safeguarding essential liberties.” *United States v. Robel*, 398 U.S. 258, 264 (1967).

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<sup>4</sup> **Article Three of the Geneva Conventions** states that the most egregious of war crimes is that of a war of aggression. “We must make clear to the Germans that the wrong for which their fallen leaders are on trial is not that they lost the war, but that they started it. And we must not allow ourselves to be drawn into a trial of the causes of the war, for our position is that no grievances or policies will justify resort to aggressive war. It is utterly renounced and condemned as an instrument of policy.” U.S. Supreme Court Justice Robert L. Jackson, Chief U.S. Prosecutor at the Nuremberg Tribunals, August 12, 1945.

The military judge by *sua sponte*, the not guilty plea and the lack of subject-matter jurisdiction over the accused is required to dismiss this case by employing **UCMJ art. 39**. If however the illegal non jurisdictional self-incriminating court-martial proceeds, the accused and/or trial counsel should use the entitled preemptory challenge to stop the unconstitutional, **Bill of Rights** breaking, kangaroo<sup>5</sup> court proceedings, pursuant to **UCMJ art. 41**. The specific challenge is reasonable doubt linked to the alleged illegal 2003 Iraq War that is a USSC Federal Question as “In all Cases affecting Ambassadors, other public Ministers and Consuls, the supreme Court shall have original Jurisdiction.” **U.S. Const. art. III, § 2, cl. 2**<sup>6</sup>. And until such time the United States Supreme Court on the merits addresses this reasonable doubt; the constitutional dimensional reasonable doubt exists; a reasonable doubt only discernable jurisdictionally in the Federal Courts! According to **UCMJ art. 51(c)(2)** “if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted”. And by **UCMJ art. 51(c)(4)** “the burden of proof to establish the guilt of the accused beyond a reasonable doubt is upon the United States.”

### **FINAL CONCLUSION**

**WHEREFORE**, this Interested Party on behalf of **We the People** of the **U.S. Constitution** prays from this honored Court **1) Grant the motion to dismiss this captioned case, so motioned!** and **2) Such other and further relief as this Honored Court shall deem proper.**

**Respectfully submitted.**

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<sup>5</sup> The origins of the term, kangaroo court, are obscure, but first usage is found in the American West in the 1850's when courts without vested jurisdiction rose out of nowhere. A kangaroo court or kangaroo trial is a sham legal proceeding as the outcome is planned in advanced for a conviction by a manipulated procedure that does not allow the accused to present its defense, like this court-martial for example.

<sup>6</sup> If this Military Court continues this court-martial, it will be stomping on U.S. Supreme Court Original Jurisdiction by their judicial action of omission violating USSC Case Law, *Northern Pipeline Constr. Co. v. Marathon Pipe Line Co.*, 458 U. S. 50 (1982) (Congress may not give away **Article III** "judicial" power to an **Article I** judge).

**Declaration Under Penalty Of Perjury And Proof Of Service**

The undersigned declares under penalty of perjury under the laws of the United States of America that he is a natural born U.S. citizen, served honorably in the U.S. Army in the 1980s and is an Interested Party to the above captioned case and states that the information contained within this pleading is true and correct and that the Original and true copies of this pleading have been sent by Federal Express or Qatar/U.S. post on or before the 12<sup>th</sup> day of May 2007 to:

**Original & 4 Copies to:**

United States Army Trial Judiciary  
Fourth Judicial Circuit  
\* c/o Office Of The Staff Judge Advocate  
Headquarters, I Corp and Fort Lewis  
Mail Stop 69, P.O. Box 339500  
Fort Lewis, WA 98433-9500

**1 Copy to:**

United States  
\* c/o Office Of The Staff Judge Advocate

**1 Copy to:**

1<sup>st</sup> Lieutenant Ehren K. Watada  
U.S. Army  
HHC, I Corps  
Fort Lewis, WA 98433

**1 Copy to:**

The Honorable Francis J. Harvey  
Secretary of the U.S. Army  
1500 Army Pentagon  
Washington, DC 20310-1500

**2 Copies To:**

USDC of Honolulu, Hawaii<sup>7</sup>  
Chief Judge Helen Gillmor  
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**2 Copies to:**

USDC of Seattle, Washington<sup>7</sup>  
Chief Judge Robert S. Lasnik  
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s/Byron L. Trackwell

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<sup>7</sup> This interested party honors these Federal Courts with courtesy copies as the Federal USDC of Honolulu & Seattle have the only jurisdiction over this court-martial since Lt. Watada is a U.S. Citizen of Hawaii and the court-martial is at Ft. Lewis, WA. A **FRCvP 65** Injunction is a remedy to refrain from doing certain acts and if one is so MOVED, *sua sponte* in any form is most welcomed!!!