


UNITED STATES

V.

ERIC GILMET
CHIEF PETTY OFFICER
U.S. NAVY

AFFIDAVIT
OF COL V. C. DANYLUK

1. I, Colonel V. C. Danyluk, USMC, Chief Defense Counsel of the Marine Corps, do declare under penalty of perjury the following is true to the best of my knowledge and belief:
2. I have personally counseled Chief Petty Officer (CPO) Eric GILMET, U.S. Navy, regarding the allegations against the United States including the Marine Corps, Judge Advocate Division, and Col Christopher Shaw as detailed in the defense's motion to dismiss for Unlawful Command Influence and interference with CPO Gilmet's constitutional and statutory rights to counsel, and the actual or apparent conflict that exists between Marine Judge Advocates serving as defense counsel, including Defense Services Organization (DSO) counsel, and Chief Gilmet.
3. CPO GILMET has affirmatively declined any detailing of a Marine DSO counsel under my authority specifically because of the actual or apparent conflict for Marine DSO counsel.
4. The apparent or actual conflicts created by the government interference with CPO Gilmet's right to counsel significantly diminish, and perhaps completely extinguish, his ability to be detailed or request an Individual Military Counsel from within the Marine Corps who have the requisite availability and competence to represent him without personal or professional conflict.
5. Both the US Air Force and US Navy Defense Services Organizations have indicated a willingness to assist in the detailing of competent and conflict free counsel in this case. Neither has yet to provide detailing as they work through the competency, availability and service specific detailing avenues. They have each remained in contact with me regarding their progress. One outstanding issue impacting a detailing decision by the Air Force is the anticipated trial dates, which I was unable to provide.
6. Separately, my personal experience, when receiving orders to Code 46 (appellate government) about 5 years ago, I was specifically told by the Community Development Deputy SJA to CMC that I could not be assigned to my requested billet as the Chief Defense Counsel billet because I had "too much time in defense." At the time, I had served only one tour in a defense billet, and only for two years of my (at the time) nearly 20 year career. Nearly all of my career had been as a prosecutor, military judge, or director of a law center at that point.


V. C. DANYLUK
Colonel, USMC
Chief Defense Counsel of the Marine Corps


DATE