

Legislation

Here is a link to the current [NDAA](#) proposals (as of 6 December) affecting military justice.

Paras Shah, [Senate Passes Justice for Victims of War Crimes Act](#). JustSecurity, December 22, 2022).

At JustSecurity, there is a podcast, [The Just Security Podcast: Civilian Protection and the War Powers in the 2023 National Defense Bill](#). “To discuss what the NDAA says about war powers and civilian protection, and where the legislation is silent, we have **Brian Finucane**, Heather Brandon-Smith, and Annie Shiel.”

People

In December, President Biden pardoned one servicemember convicted at court-martial.

Vincente Ray Flores—Air Force—Reduction in rank to grade E-3 (as amended); forfeiture of \$700 pay per month for four months; confinement for four months, suspended for participation in the Air Force Return to Duty Program (May 16, 2008) Wrongfully using 3,4 methylenedioxymethamphetamine; underage drinking.

CNN reports that he “*was court martialed when he was around 19[.]*”

NIMJ has elected two new Directors.

a. [Eric Carpenter](#) is an Associate Professor of Law at Florida International University College of Law. He is a nationally recognized expert on military law, death penalty litigation, and sexual assault law and policy. He is an elected member of the American Law Institute. He previously served as a judge advocate in the U.S. Army where he held a number of important military justice positions, including Chair and Professor of the Criminal Law Department at the Army's JAG School.

b. [Brittany Warren](#) is a Senior Associate at Wilmer Hale in Washington, D.C., where her practice focuses on internal investigations, government enforcement actions, and other criminal and enforcement matters. Prior to joining the firm she clerked for the Honorable Neomi Rao on the U.S. Court of Appeals for the District of Columbia Circuit. Prior to that she served as a U.S. Army judge

advocate where she served as a special victims prosecutor and legal advisor to Army special forces, among other positions.

Noteworthy Cases

In [*Watkins v. Ackley*](#), the Supreme Court of Oregon has concluded that *Ramos* applies to persons seeking post-conviction relief after their conviction is final under state law and its constitution.

In [*Singh v. Berger, The Commandant.*](#), the U.S. Court of Appeals for the District of Columbia has ruled in favor of Sikh's who challenged a Marine Corps policy of disallowing items of faith to be worn during bootcamp.

The International Criminal Court (ICC) appeals chamber released their [opinion](#) upholding the conviction and 25-year sentence of Ugandan Lord's Resistance Army commander Dominic Ongwen for war crimes and crimes against humanity. The opinion cites to NIMJ's amicus brief ten times, with full discussion of our views on duress and double jeopardy in the context of American military justice. The brief was prepared by Jim Young, Phil Cave, Frank Rosenblatt, with the help of former NIMJ rapporteur Emily Eslinger. Frank and Phil presented at the court. Frank's leadership got this amicus action done.

Worth a look (new and old)

Eric Carpenter, [*Hidden Killers and Imagined Saints: Why Courts Fail to Identify Unconstitutional Jurors in Death Penalty Cases.*](#) 2021 MICH. ST. L. REV. 449 (2022).

Franklin D. Rosenblatt, [*Action Penale et Action Disciplinaire: the origins and current activities of the Criminal and Disciplinary Law Committee of the International Society for Military Law and the Law of War.*](#) 60 MIL. L. & L. OF WAR REV. 247 (2022) (subscription required).

Joshua E. Kastenberg, [*Commander-in-Chief Authority and the Religious Rights of Service Members in Crisis Times: The Vaccine Mandate as a Call for Reincorporating the Standing Army Fears in Jurisprudence and Depoliticizing the Bench.*](#) 83 LA. L. REV. 2022.

Elena V. Burdina and Lilia Yu. Fomina, [*The Supreme Court of the RSFSR as a legal form of the supreme judicial authority: to the 100th anniversary of the Supreme Court of the Russian Federation.*](#) 26 RUDN J. L. 808 (2022). GMJR notes that the authors write (at 817):

The experience of legal regulation of the organization of military justice in wartime is relevant for the present period due to the Russian

special military operation. The specifics of organization of military justice in these conditions have yet to be legislated.

As Navy says, May You Have Fair Winds and Following Seas for 2023.

Cheers, Phil Cave, Editor