



# THE NIMJ GAZETTE

No. 115—Feb. 1, 2022

Please let us know ([admin@nimj.org](mailto:admin@nimj.org)) of upcoming events or publications that would interest our readers.

## BOLO

Summer fun: The trial team for Moh'd Farik Bin Amin, Military Commissions case, is looking for a full-time summer intern. Here is the notice we have.

Fellow Eric Carpenter manages NIMJ's NGO participation in the Guantanamo trials. Observing has been a premier face-to-the-public activity. Interested? Know someone interested? Observers can attend in person or via VTC at Fort Meade, MD. Talk to Eric, [please--ercarpen@fiu.edu](mailto:please--ercarpen@fiu.edu). Recently from Eric:

As always, you must have a current passport and be fully vaccinated. The tents are not ready, so you may have to pay \$87 a night for lodging. Please let me know if you are interested or have a responsible student who might want to go. Other slots open:

NASHIRI - Hearing Week: 24-30 APR 2022

NASHIRI - Hearing Week: 30 APR - 7 MAY 2022

KSM - Hearing Week: 7-14 MAY 2022

KSM - Hearing Week: 21-28 MAY 2022

## Litigation and Cases

[United States v. Hiser](#), CAAF's case of first impression interprets language in [UCMJ art. 117a](#).

In [U.S. v. Dial](#), the judge has ruled a unanimous verdict is required for guilty findings, contrary to established law. (Since [Ramos v. Louisiana](#), the military is the only jurisdiction with non-unanimous verdicts.) As a result, the Army Court of Criminal Appeals granted a stay of proceedings.

- The Government has filed a Petition for a Writ of Prohibition with ACCA on Jan. 24, 2022. CAAFlog is covering the case at <https://www.caaflog.org/home/unanimity-ruling-of-note>.
- The same has happened in [United States v. Ferriera](#), in which the same military judge presides.

*Neri, et al. v. The Queen*. Unsurprisingly, the Canadian military is facing similar issues for those following the vaccine litigation in the U.S.

The first [court-martial of an Air Force general officer in history was](#) rescheduled from Jan. 10, 2022, to April.

## Events

**April 8, 2022**, Symposium (tentatively called), *JUSTICE IN WAR: Accountability for Battlefield Misconduct*. To be co-hosted with The Judge Advocate General's Legal Center and School (TJAGLCS) at Charlottesville, VA.

## Policy Statements

The DoD General Counsel has sent a [response from the DoD General Counsel](#) to our letter recommending a court of inquiry to investigate the Baghuz strike.

Dec. 27, 2021: NIMJ [statement](#) on passage of 2022 NDAA and military justice reform.

Dec. 10, 2021: NIMJ [Letter to the Senate Judiciary Committee](#) about Guantanamo and ending military commissions.

- Tess Bridgeman, [A Rare Public Wake-Up Call for the ICRC on Guantanamo Transfers](#). Just Security, Jan. 20, 2022.
- Dianne Feinstein, [It's Time to Close Guantanamo](#). LawFare, January 11, 2022.
- Daphne Eviatar, [Defending the Rule of Law Requires Ending Guantanamo Detention](#). Just Security, January 11, 2022.
- Shayana Kadidal, [Cutting Edge Issues in Year 20 of the Guantanamo Habeas Litigation](#). Just Security, January 11, 2022.

## Updating the Manual for Courts-Martial

The President has signed an [Executive Order](#) which creates a specific offense of sexual harassment to replace the prior practice of charging sexual harassment as an Orders violation.

## Worth a look (new and old)

Hugh McClean, [Discharged and Discarded: The Collateral Consequences of a Less-Than-Honorable Discharge](#). 121 COLUMBIA L. REV. 2203 (2021).

Brett J. Kyle and Andrew G. Reiter, [\*Why Have Military Courts Become Such a Popular Tool of Repression?\*](#) Political Violence at a Glance, January 24, 2022.

Jeremy Sarkin & Ellah T.M. Siang'andu, eds., [\*Africa's Role and Contribution to International Criminal Justice\*](#), 1<sup>st</sup> ed.

Claus Kress, [\*A German Sentence of Life Imprisonment for Crimes Against Humanity—A Small Measure of Justice for Syria\*](#). JustSecurity, Jan. 14, 2022.

Navdeep Singh & Frank Rosenblatt, [\*March to Justice: Global Military Law Landmarks\*](#). Occam, Nov. 16, 2021.

Simon Bagshaw, [\*Civilian Casualties in the U.S. Air War Wars: A Wake-up Call for Canada and its Future Use of Armed Drones\*](#). Just Security, Jan. 4, 2022.

Leo Tolstoy, the defense counsel at a court-martial. R. Scott Adams, [\*The Court-Martial of Private Vasily Shabunin\*](#). JAG REPORTER, Oct. 24, 2018.

Saaty, Zoffer, Vargas, & Guiora, [\*Overcoming the Retributive Nature of the Israeli-Palestine Conflict\*](#). Springer Int'l Pub. 2022.

### **Last word**

Feel free to pass The Gazette on to anyone you think may be interested in the issues and our work. Also, [caaflog.org](http://caaflog.org) publishes a weekly (usually Friday) update of military justice cases and events as a Week in Review.