

[DEFEND OUR MARINES](#) main page

# WHAT? THE HADITHA CASE ISN'T OVER YET? IT WILL BE FIVE YEARS THIS NOVEMBER

Bob Weimann | Monday, May 31, 2010 | [printable pdf version](#)

**As the last two Haditha cases** continue to drag on, I still keep asking the question: what exactly is going on here. This question has been nagging at me for almost five years.

SSgt Frank Wuterich's Courts Martial is now scheduled for September, and LtCol Jeff Chessani's case is still pending the BOI (Board of Inquiry) endorsements from the US Marine Corps Commandant, General Conway and Secretary of Navy, Ray Mabus. To put it in "polite" Marine terms; the general officer decision making process in the Haditha mess "boggles" my mind. A quick case review demonstrates what happens when you move political expediency into the light of an open legal process.

The military legal system has proven repeatedly that the Haditha Marines followed their training, their rules of engagement and the Laws of War, yet the legal proceedings still continue. Five of the eight cases stand dismissed because of lack of evidence. In one of those cases, General Mattis basically apologized in his acquittal of Cpl Justin Sharrett with praise. General Mattis quoted to the media [his decision](#):

The events of November 19, 2005 have been exhaustively reviewed by Marine, Army, and Naval Criminal Investigative Service investigators. An independent Article 32 Investigating Officer has considered all the facts and determined that the evidence does not support a referral to court-martial for LCpl Sharratt. Based on my review of all the evidence in this case and considering the recommendation of the Article 32 officer, I have dismissed the charges against LCpl Sharratt.

LCpl Sharratt has served as a Marine infantryman in Iraq where our nation is fighting a shadowy enemy who hides among innocent people, does not comply with any aspect of the law of war, and routinely targets and intentionally draws fire toward civilians. The challenges of this combat environment put extreme pressures on our Marines. Notwithstanding, operational, moral, and legal imperatives demand that we Marines stay true to our own standards and maintain compliance with the law of war in this morally bruising environment.

The experience of combat is difficult to understand intellectually and very difficult to appreciate emotionally. One of our nation's most articulate Supreme Court Justices, Oliver Wendell Holmes, Jr., served as an infantryman during the Civil War and described war as an 'incommunicable experience.' He has also noted elsewhere that 'detached reflection cannot be demanded in the face of an uplifted knife.'

Marines have a well earned reputation for remaining cool in the face of enemies brandishing much more than knives. The brutal reality that Justice Holmes described is experienced each day in Iraq, where Marines willingly put themselves at great risk to protect innocent civilians. Where the enemy disregards any attempt to comply with ethical norms of warfare, we exercise discipline and restraint to protect the innocent caught on the battlefield. Our way is right, but it is also difficult.

**With the dismissal of these charges LCpl Sharratt may fairly conclude that he did his best to live up to the standards, followed by U.S. Fighting men throughout our many wars, in the face of life or death decisions made in a matter of seconds in combat. And as he has always remained cloaked in the presumption of innocence, with this dismissal of charges, he remains in the eyes of the law - and in my eyes - innocent.** (Emphasis added)

General Mattis is probably the Marine Corps premiere "war fighter" and his praise of LCpl Justin Sharratt is significant and I am sure it was not given lightly.

Lt Andrew Grayson's case is the only one to date that has gone before a Courts Martial. Of Lt Grayson's four charges, one was dismissed (obstruction of justice) by the judge before the court martial. Dropping or dismissing the charge before a trial is the judge's way of saying to the prosecutor; "You are kidding me, right?"

Lt Grayson was found not guilty on the other three charges (two charges of making false official statements and a one charge of attempting to discharge himself from the Marine Corps). The dismissal and the three findings of not guilty demonstrate an extreme case of a prosecutor grasping at straws for the sake of plea bargaining, and I might add, at Lt Grayson's expense.

Lt Grayson's defense lawyer basically presented standing Marine Corps Orders, demonstrated that the Lieutenant followed those orders and their associated procedures. Another sad fact is the investigating officers could not figure out Marine Corps Orders and procedures when they were trying to collect evidence. Lt Grayson's only revenge is that the prosecutor and therefore the convening authority (in this case the commanding general) looked pretty silly when Lt Grayson's lawyer presented his case. A Marine might say that the prosecutor and convening authority looked like a couple of "monkey butts". On a positive note, Lt Grayson's exercise of honor and demonstration of courage for not taking a plea bargain is exceptional and deserves admiration.

In LtCol Jeff Chessani's case, because the Court Martial was thrown out based on "undue command influence", his persecution is continued with an administrative process. Lt Col Chessani awaits his BOI endorsements from the Marine Corps Commandant, General Conway and Secretary of Navy, Ray Mabus. Despite the BOI recommendations, the Commandant is free to recommend anything he wants. As I stated before, what the Commandant could not get from the MCM (Manual for Courts Martial), he is getting from Marine Corps administrative procedural shenanigans.

General Conway will hit the four year mark as Commandant this November. Defense Secretary Gates has commenced interviewing his potential replacements. I am beginning to believe that General Conway will wrap up LtCol Chessani's BOI as he leaves and retires from the Marine Corps. Politically a wise move by the Commandant, but in the legacy leadership category, it demonstrates a lack of courage.

SSgt Frank Wuterich now has a court martial date after the judge pronounced that there is no undue command influence in his case. SSgt Wuterich's military judge, LtCol David Jones, worries me greatly on this ruling, since LtCol Chessani's and SSgt Wuterich's case is the same; same incident, same location, same investigations, same investigating officers, same unit, and the same chain of command. One thing that is different is the judge.

Col Ewer, a Marine lawyer, conducted the investigation that established the case against both LtCol Chessani and SSgt Wuterich. Col Ewer is credited with the undue command influence "goof". If Col Ewer "goofed it up" in the Chessani Case, how could he not have "goofed it up" in the SSgt Wuterich case? If your brain is starting to tingle with a very uneasy feeling because your common sense is not agreeing with your eyes and ears, that is the onset of a BMS (Boggled Mind Syndrome).

If the government finds undue command influence in the battalion commander's case, how can they not do the same for the squad leader? We must remember that the prosecution appealed the judge's finding of undue command influence (in the LtCol Chessani case) to the highest military appeals court that exists. The appeals court upheld the undue command influence finding. It troubles me that SSgt Wuterich's judge, LtCol David Jones, would ignore that appeal and the legal precedent that undue command influence did exist.

Military judges have a boss and that boss is the convening authority. In LtCol Jones case that convening authority is the MEF Commanding General (three stars). What decisions Jones make reflect directly upon the MEF Commanding General. I wonder why LtCol Jones' Commanding General does not relieve and replace him because of his very bad undue command influence call. LtCol Jones call sets up the perception that the fix is in. Again, the Marine Corps looks as if it is playing politics instead of following the MCM (Rules of Law) and the Laws of War.

I believe LtCol Jeff Chessani's fate is set. The Commandant has made his decision and he is simply awaiting the politically correct time to release the endorsements to the public.

SSgt Frank Wuterich is the last Haditha Marine. His case will go before a military judge who apparently is a judicial "wild card". For that reason, the epic legal odyssey continues with an unknown destination.

The two best ways to support SSgt Wuterich is to keep the public eye on his proceedings. Keeping a light on the Headquarters Marine Corps political and administrative manipulations also provides a light to exhibit the generals' red faces. In addition, let [SSgt Frank Wuterich and his family](#) know there are a large number of people in this country that would be glad to shake his hand with pride for his exception service.

Semper Fi.

*Bob Weimann,  
LtCol, USMC Ret.  
Former Commanding Officer, Kilo Company, 3/1*



Bob Weimann, LtCol USMC Ret

**Bob Weimann**, a veteran of the first Gulf War, is the former Commanding Officer, Kilo Co., 3/1, and a senior contributing editor to *Defend Our Marines*.

---

**Read more on the Haditha case by Bob Weimann:**

[BOI Results--See, I Told Ya!](#), December 19, 2009.

[When Doctrine Becomes Dogma](#), December 11, 2009

[Political Equivocation at LtCol Chessani's Board of Inquiry](#), December 6, 2009.

[The Sins of Generals: The Loss of Strategic Legitimacy](#), December 1, 2009.

[The LtCol Chessani case: Good news and bad news, mostly bad](#), September 5, 2009.

[General Conway bails](#), June 20, 2009

[Mister Secretary, it's time to end the double standard](#), May 16, 2009

[Two Awards, One \*Semper Fi\*](#), April 10, 2009.

[The Sins of Generals: An open letter to General Peter W. Chiarelli, Commander of the Multi-National Corps in Iraq \(November 2005-February 2006\)](#)

Click at the links below for parts one and two of this series...

[The Sins of Generals, Part One: An open letter to General Michael Hagee, Commandant of the Marine Corps \(2003-2006\)](#)

[The Sins of Generals, Part Two: Undue Influence from the Start](#)

[The Case for a Combat Commander: Lt Col Chessani in Haditha](#), Bob Weimann, *Defend Our Marines*, November 9, 2008

[The Case for a Squad Leader: SSgt Frank Wuterich in Haditha](#), Bob Weimann, *Defend Our Marines*, July 25, 2008.

Hear an interview with Bob Weimann, [Sins of the Generals helped John Murtha rush Haditha Marines to injustice](#)

Many thanks to Tim Sumner of *9/11 Families for a Safe and Strong America* for the post and to Pat Carfagno of [Freedom Radio](#) for having Bob as her guest.

Explore Haditha documents:

[Haditha evidence room](#)

---

Defend Our Marines [main page](#)

Contact us at [WarChronicle@verizon.net](mailto:WarChronicle@verizon.net)