Military Law

Walter F. George School of Law
Mercer University
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Final Exam
29 November 2006

To be completed in one hour.

Open book.

Use assigned blind-grading number. Do not use your name in your blue book.

Part I (to be completed by all students) (20 minutes)

Taking the list of charges against the king in the Declaration of Independence, explain how the provisions of the Constitution, the ruling in Hamdan, and the order in ACLU et al would forbid, sanction, or call into question the alleged actions of King George III, if these provisions were applicable to him as president.

Note: Restrict your analysis to those alleged actions that involve the military or civil-military relations.

Part II: Answer **two** of the following. (20 minutes each)

1. With the class presentations as your guide, describe the role or influence of public opinion and politics on the MacArthur/Truman conflict, the evolution of press coverage of combat operations, and the move from containment to preemption as America's military strategy.

2. With the class presentations as your guide, describe the role or influence of public opinion and 20th and 21st century western norms on the concepts of war crimes, genocide, conscientious objection, and rules of engagement.

3. Describe how the enlisted oath affects the outcome in *A Few Good Men*

OR

Describe how the officer's oath affects the outcome in *The Caine Mutiny*.

The oaths are shown below:

> Officer's Oath: "I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign or domestic, and bear true faith and allegiance to the same; that I enter into this obligation freely, with no mental reservations or purpose of evasion; and that I will well and faithfully carry out my duties. So help me, God."
>
> Enlisted Oath: I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice. So help me, God."

4. <u>Situation</u>: You are a Judge Advocate General officer appointed to represent Corporal Smith, who has been charged with assault.

<u>Facts</u>:

Corporal Smith was a member of a infantry squad on patrol in Afghanistan. The squad took fire from men not in uniform but supposedly members of Taliban forces. The squad returned fire, closed with the enemy, and forced them to retreat. The enemy left one wounded prisoner.

As the squad secured the enemy position, the wounded prisoner attempted to fire on the squad. His weapon jammed, and Corporal Smith took the weapon away.

Corporal Smith's squad leader, Sergeant Jones, then raised his own weapon and aimed at the wounded prisoner, saying "That won't happen again! Let's kill 'em. "

Corporal Smith responded: "We've got him secure. He can't do anything now."

Sergeant Jones: "So what? I'm taking him out."

Corporal Jones then "butt stroked" Sergeant Jones (hit him in the head with the butt of his rifle). Sergeant Jones went down, stone cold, but recovered. The prisoner survived, too.

<u>Questions</u>:

What are your client's defenses?

What points from the prosecution must you overcome?