

UNITED STATES MARINE CORPS
WESTERN JUDICIAL CIRCUIT

UNITED STATES)	GENERAL COURT-MARTIAL
)	
v.)	
)	DEFENSE PROPOSED VOIR DIRE
JAMES M. ROWE)	
CAPTAIN)	
U.S. MARINE CORPS)	08 November 2011

The defense proposes the following *en banc* questions:

The law, Burden, and Presumption of Innocence:

1. How many of you have a particular view on criminal justice?
2. How many of you feel that criminal justice is prone to letting criminal get away?
3. How many of you personally know of someone who was found not guilty after you believed that person to be guilty?
4. Have you ever served in a capacity where you could refer Marines to courts- martial?
5. Have you ever been the victim of a crime?
6. Have you ever worked or know anyone that worked as victim advocate?
7. How does the fact that Captain Rowe is charged affect your presumption of his guilt or innocence?
8. Do any of you have an opinion about the presumption of guilt or innocence in this case?
9. Do all the members agree that the burden will always be on the government to prove every element of every charge and specification beyond a reasonable doubt?
10. What do you think is worse, if an innocent person goes to jail or if a guilty person goes free?
11. Have you ever heard about someone being convicted of a crime and then later it was proven that they were in fact innocent? In other words, have you heard about innocent people being wrongfully convicted of a crime?
12. Do you believe that innocent people can be wrongfully convicted?
13. In a rape accusation trial like this one, is it important for you to hear from the accused?

14. Do you believe that since Captain Rowe has been accused of a crime that he should have prove his innocence to you?
15. The government, according to the law, has the duty to prove their accusations. Do you believe that this is a fair or unfair duty?
16. The government has a duty, under the law, to prove their accusations at a very high level, called beyond a reasonable doubt; do you believe that it is unfair to require this level of proof?
17. Do you believe that if the Government accuses someone of something this serious they should have to prove it?
18. Do you have any experience in applying the reasonable doubt standard to a set of facts?
19. You are going to get some instructions from the judge about something called good military character. Do any of you feel that evidence about certain character traits of a person could never be important to determining guilt or innocence?

The Charges, personal views and biases:

20. Do you feel a greater sense of protection towards female members of your family or friends as opposed to male members?
21. Do you know anyone who has ever claimed to have been raped?
22. Do any of you know anyone whom you believe has been a victim of sex crime?
23. Do you agree that a person who does something illegal or of questionable legality may have reason to fear the consequences?
24. Do you agree that fear can be a powerful motivator?
25. Do you agree that some people would lie to avoid being prosecuted for illegal conduct?
26. Do you agree that fear could cause some people to lie to protect themselves?
27. Do any of you feel that a woman would never falsely accuse someone of rape unless she was actually raped?
28. Do any of the members believe that the stigma or others societal consequences that may be associated with a claim of being a sex assault victim is so great that it is unlikely that someone would falsely claim to have been sexually assaulted?
29. Can you make room for the possibility that someone could make a false rape accusation?
30. Can you make room for the possibility that a person could accuse another person of a crime in order to avoid embarrassment?

31. Do you believe that there is a difference between the biblical definition of adultery and the legal definition of adultery?
32. If you believe that there is a difference, do you have a feeling one way or the other about the different definitions?
33. Do you all agree that in the Marine Corps we often have personal expectations of conduct that are sometimes different than one the regulations or the law require?
34. How many of you, knowing yourselves, believe that you would have no difficulty in abandoning your personal expectations of conduct if your expectations are different than what the judge instructs you the law demands?
35. Do any of you have strong feelings alcohol?
36. Do any of you have any religious beliefs related to alcohol?
37. Do you have an opinion about the term “good order and discipline?”
38. Do you have an opinion about the term “service discrediting?”
39. Do any of you have a standard definition of conduct unbecoming an officer?

Members and Influence.

40. Do you personally know anyone who is a police officer or in law enforcement such as the FBI, a Sheriff’s Department, a federal agent such as customs or NCIS?
41. Do you have any friends or family who are in law enforcement?
42. Do you have any friends or family who work in the legal field?
43. Views on lawyers and defense lawyers in particular?
44. Do all members understand that every member’s vote is equal to the vote of every other member regardless of rank?
45. Do all members agree that in the Marine Corps Marines junior in rank must obey those senior to them?
46. How will the junior members of this panel ensure that their votes are not affected by the desires or decisions of the senior members of the panel?
47. Have any of you heard the convening authority or any other senior officer discuss military justice in general?
48. Do any of you feel that you have a good understand of the military criminal justice process?

49. Do any of you know how you were selected to be here?
50. Do any of you believe that you were especially selected to sit on this court-martial?
51. Do any of you feel the convening authority will be displeased if there is not a conviction?
52. Have any of you ever received briefs or PME on sex assaults in the military or the Marine Corps?
53. Have any of you received any emails, correspondence, printed materials, booklets or any other form of communication intended to raise awareness about your duty to investigate, handle, identify, punish or any way deal with sex assault allegations
54. Do any of you believe that sex assaults are on the rise in the Marine Corps?

PTSD

55. Have all members heard of PTSD?
56. Do any of you have any experience with anyone who has used PTSD as an excuse?
57. Do you have strong feelings about PTSD?

/S/ Haytham Faraj
Haytham Faraj
Attorney for Accused
1800 Diagonal Road
Suite 210
Alexandria, VA 22314
(703)706-0442
Haytham@puckettfaraj.com

CERTIFICATE OF SERVICE

I hereby certify that on November 08, 2011, I electronically filed the foregoing paper with the Court and with the Government at the following.

/S/ Haytham Faraj
Haytham Faraj
Attorney for Accused
1800 Diagonal Road
Suite 210
Alexandria, VA 22314
(703)706-0442
Haytham@puckettfaraj.com