

UNITED STATES MARINE CORPS
NORTHERN JUDICIAL CIRCUIT

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

10 December 2011

The defense proposes the following *en banc* questions:

The law, Burden, and Presumption of Innocence:

1. How many of you have a strong view on criminal justice?
2. How many of you feel that criminal justice is prone to letting criminals 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 worked or know anyone that worked as victim advocate?
5. Does the fact that Captain Rowe is charged affect your presumption of his guilt or innocence?
6. Do any of you disagree with the presumption of innocence that Defendants are supposed to be afforded in a criminal case?
7. Do any of you agree with the statement that it is better to let a guilty person go free than wrongly imprison and innocent person?
8. Have you ever heard about someone being convicted of a crime and then later it was proven that they were in fact innocent?
9. Do you believe that since Captain Rowe has been accused of a crime that he should have prove his innocence to you?
10. Do you have any experience in applying the reasonable doubt standard to a set of facts?
11. 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:

12. Do you feel a greater sense of protection towards female members of your family or friends as opposed to male members?
13. Do you know anyone who has ever claimed to have been raped?
14. Do any of you know anyone whom you believe has been a victim of sex crime?
15. Do you agree that a person who does something illegal or of questionable legality may have reason to fear the consequences?
16. Do you agree that fear can be a powerful motivator?
17. Do you agree that some people would lie to avoid being prosecuted for illegal conduct?
18. Do you agree that fear could cause some people to lie to protect themselves?
19. Do you agree that someone could make a false rape accusation?
20. Do you believe that a person could accuse another person of a crime in order to avoid embarrassment?
21. Adultery is defined in the Merriam-Webster dictionary as *voluntary sexual intercourse between a married man and someone other than his wife or between a married woman and someone other than her husband; also : an act of adultery*. Under the UCMJ adultery is defined as sexual intercourse between a married person AND the conduct must be prejudicial to good order and discipline or service discrediting. Do any of you feel that you would not be able to accept the UCMJ definition of adultery?
22. Do any of you feel that you would not be able to follow the judge's instructions on the law if your moral or religious beliefs are contradicted by the instructions the judge gives you?
23. Do any of you have strong feelings about alcohol?
24. Do any of you have any religious beliefs related to alcohol?

Members and Influence.

25. 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?
26. Do you have any friends or family who work in the legal field?
27. Do all members understand that every member's vote is equal to the vote of every other member regardless of rank?
28. Do you agree that marines often emulate or are subject to influence by those senior to them, especially those they respect?

29. Will the junior members of this panel ensure that their votes are not affected by the desires or decisions of the senior members?
30. Have any of you heard the convening authority, General Flynt or any other general officer discuss military Justice?
31. Based on your experience do any of you feel that you have a good understanding of the military criminal justice process?
32. 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

PTSD

33. Have all members heard of PTSD?
34. Do any of you have any experience with anyone who has used PTSD as an excuse?

Individual Voir Dire for All Members

1. 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?
2. Do you have an opinion about the term “good order and discipline?”
3. Do you have an opinion about the term “service discrediting?”
4. Do any of you have a standard definition of conduct unbecoming an officer?
5. Do you have any friends or family who are in law enforcement or the legal profession?
6. Views on lawyers and defense lawyers in particular?
7. Do any of you believe that you were specially selected to sit on this court-martial?
8. Do any of you feel the convening authority will be displeased if there is not a conviction?
9. Have any of you ever received briefs or PME on sex assaults in the military or the Marine Corps?
10. Do any of you believe that sex assaults are on the rise in the Marine Corps?
11. Do you have strong feelings about PTSD?

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CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2011, I electronically filed the foregoing paper with the Court and with the Government at the following.

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