



# Turning a Tag into a Court-Martial

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A soldier was convicted for being absent without leave (AWOL) after finding out his Army unit's deployment was extended to a year in Iraq. *United States v. Scheuerman*, 2009 CAAF LEXIS 812, 7-8 (C.A.A.F. 2009). The Defendant claimed he suffered from post-traumatic stress disorder, which is why he went AWOL.



Part of the evidence against the Defendant was testimony from platoon sergeant on the Defendant's negative attitude on the Army. Rules for Courts-Martial 1001(B) allows for presenting evidence in aggravation of "any aggravating circumstances directly relating to or resulting from the offense of which the accused has been found guilty." *Scheuerman*, 4-5.

The Court included one comment in a footnote from the Defendant's MySpace profile, posted on the day he was supposed to be on a plane back to Kuwait. The redacted message is posted below:

"UNCLE [Redacted] [Redacted] [Redacted] SAM JUST EXTENDED MY UNIT IN IRAQ. . . . SO INSTEAD OF GOIN [SIC] BACK TO-DAY AND HAVIN [SIC] LIKE 7 OR 8 MONTHS LEFT, I HAVE A [Redacted] YEAR!!!!!!!!!!!!!!!!!!!!!!" *Scheuerman*, 9, fn 4.

The Defendant's conviction was upheld. The Court found that his many negative comments were properly admitted, because the "remarks demonstrate a lack of remorse for the offenses of which he was convicted and, as such, are relevant in fashioning an appropriate sentence." *Scheuerman*, 9.

## Bow Tie Thoughts

Web 2.0 actions can have real life consequences. People should be very careful in venting about frustrations and not crossing into legal action.

In the civilian world, speaking negatively about your company or coworkers online might result in getting fired, HR violations or a defamation lawsuit. In the military, the consequences can be a bad conduct discharge.

Status messages, tags and comments are appearing in litigation. People need to be aware their actions can have consequences in cyber-space.