

3 Apr 06

From: LT Gordon James Klingenschmitt, CHC, USN
To: Commanding Officer, Naval Station Norfolk

Subj: Legal justification for wearing my uniform (addendum)

1. Sir, my supervisor Chaplain Holcomb, just informed me that you do not concur with my letter dated 31 Mar 06, and instead he stated his belief that you maybe plan to convene a "special court martial" to punish me for saying public prayers "in Jesus name" in uniform before media reporters on 30 Mar 06, when I stood in front of the White House with Chief Justice Roy Moore, in my official capacity as a whistleblower, appealing to the President.

2. You should be aware that two members of your command, both claiming to speak on your behalf, had given me conflicting orders regarding this event. On Wednesday 29 Mar 06, Chaplain Holcomb verbally directed me not to wear my uniform at the 30 Mar 06 event. But on 6 Jan 06, your Executive Officer gave me express written permission to wear my uniform during all "public worship" events (such as the 30 Mar 06 event). He specifically wrote:

b. Based on the limited information about this event that you have provided, including your statement to the Executive Officer that the event was being organized by a clergy lobbyist group, I have strong reservations about whether this event will, indeed, be a bona fide religious service or observance, rather than a demonstration or assembly to promote personal or partisan views on political, social or religious issues. Accordingly, I recommend that you not wear your uniform for this event.

c. Notwithstanding my recommendation, you must use your own best judgment to evaluate the facts and conform your conduct to regulations.

d. If, despite my recommendation, you choose to participate in this event in uniform, you should limit your participation, while in uniform, to the "bona fide religious service or observance." If the event becomes a demonstration or assembly of personal or partisan views you are directed to ensure that you conform to the guidance as specified in reference (c). You should not, while in uniform, give interviews, make speeches, or otherwise engage in public advocacy of personal or partisan views on political, social or religious issues.

3. Since I received two conflicting orders from you, I obeyed your written lawful orders (signed by the higher ranking XO, who did represent your view) and disobeyed the verbal unlawful orders (of lower ranking chaplain who merely claimed to represent your view). In this way, I did not disobey you at all, I simply obeyed your more authoritative (written) orders, and disregarded Chaplain Holcomb's claim to speak as your representative, when his guidance conflicted with your previously written orders. As your XO agreed in writing, my prayers in Jesus name were "bona fide religious observance" in full compliance with uniform regs.

//signed//

G. J. KLINGENSCHMITT

31 Mar 06

From: LT Gordon James Klingenschmitt, CHC, USN
To: Commanding Officer, Naval Station Norfolk

Subj: Legal justification for wearing my uniform

1. Sir, you may read in today's Birmingham News (posted on my web-site: www.persuade.tv) that I intentionally disobeyed your unlawful orders yesterday, which duty required me to do, in keeping with my solemn oath to support and defend the Constitution. Former Alabama Supreme Court Chief Justice Roy Moore (a West Point grad, Vietnam Vet, and an expert in constitutional law) publicly supported my decision, saying "members of the military are capable of determining which orders are unlawful, and they 'must' disobey them."

2. Please consider this my formal notification to you and all members of my chain of command, of my four specific reasons (founded in law), for wearing my uniform outside the White House yesterday:

a. US Code Title 10 Section 6031 protects a chaplains right to "conduct public worship" (even in uniform) according to the manner and forms of the church of which he is a member. Despite the SECNAV's recent (illegal) attempt to confine "public worship" to a chapel setting, the origins of federal law since 1860 have always protected a chaplain's right to pray (even in uniform) outside the chapel during secular events (such as our event yesterday).

b. Navy uniform regulation 1401.3.b(4)(b) specifically authorizes me to wear the uniform, (even without commanding officer approval), when participating in a "bona fide religious service or observance." While yesterday's secular event isn't defined by the new SECNAVINST 1730.7C as a "divine worship service," the religious elements of that service (the invocation and benediction) certainly qualify as a bona fide religious observance. This proves my point again, that public worship is public worship, inside or outside the chapel, as these uniform regulations confirm.

c. The Religious Freedom Restoration Act (RFRA) of 1993 requires government agents (including military commanders) use only the "least restrictive means possible" when limiting the religious speech of American citizens. Since my only uniformed speech yesterday involved saying traditional Christian prayers and scripture readings, any effort to punish my religious speech, (or remove my uniform while praying), certainly violates RFRA.

d. As a whistleblower, I have specific constitutional rights (even in uniform) to appeal injustice to my chain of command, including the President and Congress. My whistleblower complaints have been posted on the internet for 11 months, but SECNAV has failed to provide timely relief (when 45 days is standard for most investigations). Additionally SECNAV has

refused to forward my letter to the President dated 3.5 months ago. Finally SECNAV himself responded to part of my complaint (against the Chief of Navy Chaplains who forbade prayers "in Jesus name") by signing an illegal policy (backing Chief of Navy Chaplains before even completing my Article 1150 investigation) by further restricting the content of my public prayers.

Do you think I have a legal right to appeal this injustice to the President? When SECNAV himself refuses to investigate my 1150, refuses to allow me to communicate with the President, then authorizes Commanders to punish my prayers, I have a duty to use other communications media (including the press) to reach the President's ears, even while I'm wearing a uniform. That's what whistleblowers do. In fact, my uniform itself that demands I defend the Constitution. I will not be stripped of it while I honor it by doing my duty. Therefore my uniformed speech outside the White House yesterday is protected under the Whistleblower Protection Act, and I will interpret any punishment of my speech as a direct reprisal against me, initiated by the Secretary of the Navy Donald C. Winter, who continues to hide my complaint from the President, even today.

3. Considering this four-fold legal basis for my right to wear a uniform yesterday, I contend that Chaplain Holcomb's 29 Mar 06 directive (on your behalf) "forbidding" me to wear my uniform has no basis in law, and was therefore an unlawful order, intended only to suppress my religious speech and silence my whistleblower complaints. Abu Graib and Muy Lai provide ample proof that officers have a duty to disobey such unlawful orders, and so wearing my uniform yesterday (and saying Christian prayers) in front of the White House were my proper duty as an officer sworn to defend the Constitution against its domestic enemies. Since you also value Constitution and law, I'm confident you'll understand and rescind your unlawful order, and protect me from anyone wishing to punish me for yesterday's event.

4. I interpret your recent efforts to remove my uniform as yet another effort to silence my uniformed speech to Congress and the President. Officers have a right to communicate with Congress even ON-DUTY IN UNIFORM and so I respectfully request your express written permission to continue wearing my uniform whenever communicating with Congress (via any lawful communications media), even if my speech is non-religious, even if I'm only telling Congress about violations of the law by senior officers. If you don't reply I will respectfully assume your concurrence.

Very respectfully,

//signed//

G. J. KLINGENSCHMITT