

Thank you for this opportunity to present improvements to our military in the FY 2022 National Defense Authorization Act (NDAA).

The Congressional Justice for Warriors Caucus has a mission of defending our defenders when they face injustices in the military legal system. As you may be aware, our service members are not afforded the same legal rights and protections as civilians, and it is our goal to see that this is remedied as much as possible while still taking into consideration the special needs and circumstances of the military.

It is with this in mind that we propose the Justice for Warriors Act; essentially, a Bill of Rights for our service members which addresses many core concerns with the Uniform Code of Military Justice (UCMJ) and seeks to align aspects of military law with state and federal law.

Some of the remedies in the Justice for Warriors Act include ensuring that members of our military have equal access to petition the Supreme Court, unanimous jury verdicts in trials and prohibiting jury tampering through disallowing commanders the authority to give unclassified briefings to subordinates pertaining to the accused's case, which unfortunately has occurred.

Current law, specifically Section 1259 of Title 28, United States Code, prevents service members from filing for review by the U.S. Supreme Court if their petition is denied review by the Armed Forces Court of Appeals. Simply put, terrorists at Guantanamo Bay have greater access to the Supreme Court with no restrictions based on a lower court ruling. It makes no sense that our own military members would be subjected to this arbitrary restriction while enemies trying to kill our military face no such constraints.

Under current military law, specifically Section 852 of Title 10, United States Code (Article 16 and 52 of the UCMJ), a three-fourths majority of the jury is all that is necessary for a "guilty" verdict. Our bill requires a unanimous verdict to convict, providing our service members equal protection under law that civilians have. Many exceptions to rights under the Constitution have been pushed beyond what is just and right for our military members. In the Supreme Court decision of *Ramos v. Louisiana*, Justice Gorsuch contends that Ramos was denied a fair trial because he was, "convicted of a non-unanimous jury as an unconstitutional denial of the 6th amendment right to a jury trial."

If the Supreme Court has noted the propriety of a unanimous jury verdict, the Military Courts should not be permitted to ignore that decision and deny our service members the same Constitutional right.

Under Article 25 of the UCMJ, members of the same unit as the accused may sit on a jury for their coworker. Commanders also have the authority to give unclassified briefings to their subordinates on the accused's case to warn them about negative behavior that could impact the Armed Forces. These two acts infringe on the presumption of innocence and can greatly impair jury impartiality. It further makes clear

to jurors that if they want to continue their military career unabated, they must follow the will of the Commander.

The Department of Defense does not necessarily think this is a problem, but the Committee on Rules disagreed with this assertion back in 1997, stating, "The courts must take appropriate steps to insulate alternate jurors. That may be done by separating them and instructing them to not discuss the case with any person." If that is so important for alternate jurors, one can conclude it is even more vital for original jurors.

The aforementioned proposals represent just a few examples of the changes to UCMJ we wish to see that are outlined in the Justice for Warriors Act. Ensuring our servicemen and women are properly protected in the military justice system is a national security issue that we must take seriously.

Thank you for your consideration.