

Civil Courts v. Military Courts: What's the Difference

A Conservative Attorney: Linda L. Kennedy, Attorney, Virginia
With a Surprising View

Dear Media:

I realize that some of you may not be aware of the deception that the "due process/constitutional attorneys" are spewing out on our airways, but let me set that record straight for you on military courts—and I hope you have the guts and integrity to report it. I have heard of no one who is saying on the air what I have to say today. Many unfortunate citizens know and agree with what I will be describing to you. That is why I am writing, because it must be said and you must hear it from an otherwise, conservative attorney. Additionally, I had just recently met with a former Attorney General of the United States. Although he indicated that the judicial system needs fixing, for him it was all about one political party being right while the other one was wrong. That is absolutely not the problem.

Because this point of view I am presenting will be surprising coming from a "conservative" (trained at Pat Robertson's Regent University School of Law) attorney, I hope you will see how ridiculous the Military Court v. Civil/Criminal Court's debate actually is and the legal fiction the distinction between the two creates. The public should not be fooled by these "scholars" who try to paint a difference between the two systems which are in all practicality, the same.

Additionally, I have put myself in grave jeopardy because I dare speak out against the "gods" of some of the courts, i.e., some of the judges, and their government agencies, for obvious reasons. It has been and still is professional suicide to say what I have to say and I have certainly "walked the plank" more than just a few times for being so outspoken in a way that is not "big-business friendly." What I have to say must be said however, for the public's best interest.

Most of what I am hearing on the air which is of concern to some of the constitutional attorneys being interviewed, is that the Military Courts may be unfair because they do not allow for adequate discovery (turning over of evidence to the opposition so that the defense can prepare a case), they have quick trials and secretive hearings, they will incorporate biased judges, they have no juries, and possibly no appeals.

The bottom-line is simply: All of this debate has to do with protecting civil rights. I want to show you why this debate is moot in practicality, and by not having the following view as a part of any discussion, is misrepresenting the real problem to the public. In comparing these courts, we need to actually look at what civil rights the people are actually receiving and then compare the courts. Let's not look at the situation in a test tube any longer. Here is what I am telling you is happening, not only as a scholar, but as a practicing attorney who gets to see the inside of a courtroom all day-every day.

My claim which I can support with volumes of hard evidence including testimony, transcripts,

etc., is that some of our courts are already unconstitutionally acting as military courts against the people today. Many individual plaintiffs that go into our courts (depending on which courts) get to learn this shocking lesson all by themselves, and then after the dusts settles, they get to try to pick up the pieces of their lives once they have truly experienced the tyranny of our own corrupted system which ignores our Constitutional Rights daily. Because the reality is kept so secret from the public at large, and because many news agencies will not inform the public of the horrendous condition of these courts, the public is totally unaware of the injustices happening daily; only to find out if they are unfortunate enough to get caught up in the "vortex" of the judicial system--with only fleeting hope of ever getting free of it with their shirts still on their backs!

Our civil rights are not protected now, even though the Constitution guarantees them, since some of the courts ignore the Constitution regularly when it actually secretly, quietly, and quickly dismisses our cases, without so much as a hearing, without so much as a right to an appeal (rubber stamped "denied" without so much as an opinion as to why we lost, which then goes into an "unpublished opinion" file at the discretion of the court so that nobody else (not even attorneys) know that the case existed, and it does not affect precedents). These courts openly and willingly allow one side (usually the defense in civil cases, and the prosecutors in criminal cases) to commit repeated perjury and allow it to thwart discovery requests (the lawful and mandatory turning over of documents which allows the opposition to know what the issues are). If these examples do not fit into the concerns of the Constitutional "scholars" over the Military Courts what does?

I ask you, why are so many special interest corporations funding judicial and governmental officials to go on trips and to hear "pro-corporation" seminars? Doesn't this sound a little bit like a biased court would result from such junkets? This is happening regularly within our state and federal systems without hardly a word from the media. Why else would the Congress be so concerned over appointments and the personal stands each judge has on issues? It is because Congress knows that an unbiased and impartial judiciary is nonexistent when it comes to special interest groups and any poor plaintiff and/or that attorney that tries to challenge it will pay dearly for daring to do so.

Would you be surprised to hear from two people who actually had their judges fall asleep during the trial, only to take the decision away from the jury once awakened, and then dismiss it without the benefit of due process? Of course, big business won again. The special trips and seminars for judges' payoff. One case was dismissed after the judge used 19 facts that were not even admitted into evidence (that is like not allowing for discovery as military courts are professing to do). This is forbidden by law. Appeal was denied, and the opinion was unpublished like about 90% of the opinions in the 4th circuit so that nobody is the wiser. What about a judge that dismisses a defamation claim against an insurance company saying that the plaintiff should not have filed a suit because money is more important than reputation anyway and that she should read some books because everyone knows that. Doesn't it make you wonder which big business supported those decisions? What about a judge who refuses to acknowledge "blacklisting" as a law, even though Congress/General Assembly made such a law to be enforced by the courts? Would you be surprised that in both of these cases described above, the plaintiff got sanctioned (assessed fines and fees against them) for daring to bring these cases into court? I ask you then, in reality how is our present court system any different from the Military Courts to which so many are taking offense?

Besides me, I know of only one other attorney who is trying to bring these abuses to light. She stepped down from a government position because of all of the corruption for which she did

not want a part. She filed suit and clearly showed the corruption of a particular city's police, attorneys, and judges. Not only was she sanctioned for daring to bring such a case forward, but those she exposed placed a gag order on her, every single pleading ever filed is sealed so that nobody can find out about this corruption, and she is regularly arrested by that cities police as punishment. To top it off, although the case was never heard on the merits, she was sanctioned about \$18,000 and she has approximately another \$200,000 waiting for her in our wonderful 4th Circuit Court. That is what happens to those few of us who dare to expose what is really going on in this corrupt system. Sounds like something we would describe might happen under the reign of the Taliban doesn't it? Certainly this is worse than any military court which will at least have some scrutiny placed on it.

How would you feel if you were judged by a judge who liked to use the word "nigger" and derogatorily acts in a stereotypically "poor black from the 1800's manner" after he finds an African American guilty? How about a judge who proudly claims that he does not find for employees in employment law cases (how's that for unbiased judges).

Why then is the issue Military Courts v. Civil/Criminal Courts when, practically, there is no difference? If you look at the statistics, and open your forum to citizens who have been a part of actual court proceedings in certain jurisdictions including federal jurisdictions, you will clearly find that some courts are treating their supposedly open courts as if they were Military Courts--and getting away with it daily. I will show you just one Federal Circuit who routinely violates our Constitutional Rights daily with the blessing of the Court of Appeals, but only one for brevity sake. Please note that this is not my only example.

Take the Federal 4th Circuit located in Virginia. There exists a Title VII statute that allows for a plaintiff in a "protected class" to file suit against employers who treat them wrongly because of their race, color, sex, national origin, or religion. Just in the year 2000 which is the last full year of statistics, the 4th Circuit Court of Appeals heard 11 cases on appeal from district courts (not counting unpublished opinions and all the other district court cases which were quietly and secretly dismissed). Of these cases all 11 were decided in favor of the defendant (big-business) at the district court level. One of these was even heard by a jury (Conner v. Schrader-Bridgeort International, Inc., 227 F.3d 179 (4th Cir. 2000)) and the jury found for the plaintiff. Let me explain. Getting to a jury in the 4th Circuit is almost unheard of in employment law cases although it is granted as a right under Title VII. In spite of the jury finding in favor of the plaintiff, the district court judge then proceeded to take the case from the jury and find for the defendant anyway (How's that for due process?). Furthermore, of these 11 cases, all had been decided for the defense on summary judgment (judge refuses to provide for a trial for the plaintiff), or judgment as a matter of law (judge decides that even though the jury may have been present, they do not get to decide the case at all).

Because I have taken part in cases like these and regularly have to tell my client "don't even bother going to this court for justice," I will absolutely guarantee you that much of the evidence was obfuscated by the defense and the judge was absolutely no assistant of justice in making the defense turn over the evidence it was hiding. In fact, if the plaintiff gets his/her hands on a document of the employers which could prove the truth; one that the defense is falsely claiming they don't have, the judge then finds that it is "stolen," and makes the plaintiff return the document to the defense. The defense then can continually claim that the document does not exist even though the court knows that is not true and that perjury has been committed.

Additionally, these judges are repeatedly "wined and dined" by big business with big corporate interests (Please see www.Tripsforjudges.com for my information here). According to

Tripsforjudges.com, judges have been sent on vacations even as far as Israel by big business. Also the Foundation for Research on Economics and the Environment (FREE) and the Liberty Fund pays for this vacations for judges which are coincidentally, very close to their headquarters for "seminars." One judge even received a trip for he AND HIS SON, by businessman Mr. Hank Jones. How's that for unbiased Judges?

FREE is a nonprofit organization that advocates reliance on the free market and private property rights, instead of environmental laws to protect the environment. Obviously, any tenant, employee, environmentalist, and anyone else challenging the acts of one of these interests is in for a surprising, and rude awakening. Judges who attend their lectures are indoctrinated into the emphasis of property rights and market processes according to big-business interests. FREE gets it's funding directly from corporations, foundations of large companies, and from prominent conservative foundations. FREE receives 1/3 of its budget directly from corporations such as Shell Oil Company Foundation, Burlington Resources Foundation, General Electric Fund, Temple-Inland Foundation, and Kock Oil (Lambe Foundation). Foundations which support FREE are Sarah Scaife, Carthage Foundations, and the John M. Olin Foundation. These foundations are among the largest supporters of nonprofits that challenge environmental regulations in federal court. How's that for unbiased Judges and the possibility of a citizen of the United States receiving a full and fair hearing under the law?

Liberty Fund was founded by businessman Pierre F. Goodrich. The Liberty fund makes grants directly to conservative and libertarian organizations such as the Cato Institute, the Center for the Study of Federalism, and the Political Economy Research Center. The Liberty Fund not only hosts its own seminars for judges, they also fund those of philosophically aligned groups. The Liberty Fund has over \$202 million in assets and in 1997 alone spent \$1.6 million (1/5 of their total budget) sponsoring meetings and seminars for federal judges and other government leaders.

If there is any doubt about the biased, unfair, and unconstitutional nature of the judicial make-up and decisions that would rival any military court in the land, then consider that all but one of the judges currently sitting on the 4th Circuit Court of Appeals bench has previously worked with a firm whose primary practice area was civil defense (big-business).

It is unusual that any attorney, let alone a conservative attorney would dare to speak out against the judicial system and its supporting agencies for several reasons, only some being obvious. But for me to sit in front of some of the news shows night after night, hearing the debate over the woes of the Military Courts and how we are known for our Civil and Criminal Due Process Rights, and at the same time picturing in my mind the many people who have been hoodwinked and even ruined by this so called "just" system, is not tolerable to me. The Constitution is to be honored in that it does provide the citizens of this country with due process and other very valuable rights necessary to keep a society truly free. Unfortunately, as Thomas Jefferson and many others have warned, the system is only as good as those who oversee it. Unfortunately, those who presently oversee it are "Big-Business" and their advocates. Why else would we be willing to bail out the insurance industry, some of whom regularly deny otherwise valid claims, hire fact-witnesses to lie, change doctor reports, etc., at the expense of the people and with total "selective-ignorance" by the Courts and the State Bars who oversee attorneys who do this? In fact, these attorneys who do this are sometimes our next Bar president or Judge. Only those who fight this system are harassed.

Was the Judge who said money is more important than reputation really telling the truth?

Should I just read some books so that I too will believe that is the "American Way?" It sure sounds like it, as it is the present state of affairs which is being selectively ignored by those who should be speaking for the people. The Constitution still exists for the protection of the people through due process and other valuable rights. If we are going to ignore it daily, however, then at least let us not pretend that there is a difference between Military and Civil/Criminal Courts.

As you can see, the Military or Civil Court debate is moot because the Military system is already in place and has been in place for years, applied against our own shocked, but now "court-hardened" citizens. Many of them are speaking out in frustration, because no media dares to expose this oppression which is likened to the sad days of slavery in America.

Attorneys also know what I am talking about, but until they value the people more than their own pocket books and their distinguished professional careers, then our profession will continue to claim that the "Emperor has clothes" and that there is a difference between the unconstitutional Military Courts and the Civil/Criminal Courts by which the people are continually being terrorized. As President Bush has said, terrorists need to be "rooted out." In this case, either the media is with the people or with those who practice judicial terrorism at the expense of our citizens. Come on American Media—start telling the whole story; "Let's Roll."

Sincerely,

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