DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1322 PATTERSON AVENUE SE, SUITE 3000
WASHINGTON NAVY YARD DC 20374-5066

JAGINST5817.lK
Code 05
JUL 1 4 2021

JAG INSTRUCTION 5817.1K

From: Judge Advocate General of the Navy

Subj: JUDICIAL SCREENING BOARD

Ref: (a) Uniform Code of Military Justice
(b) JAGINST 1150.2E
(c) MILPERSMAN 1070-180
(d) MCO P1070.12
(e) JAGINST 5803.1E
(f) JAGINST 5803.2B

Encl: (1) Sample Request for Screening/Rescreening
(2) Sample Request for Judicial Assignment for a Sitting Judge
(3) Appraisal Form

1. Purpose. To establish a Judicial Screening Board (Board) for screening Navy and Marine Corps judge advocates for assignment to a trial and/or an appellate judicial billet and certification by the Judge Advocate General (JAG) as a military judge.

2. Cancellation. JAGINST 5817.lJ.

3. Discussion. In accordance with Article 26 and Article 66 of reference (a), military judges must be certified by the JAG as qualified to perform judicial duties. Selection for assignment to judicial billets is critical to the fair and effective administration of military justice. Judge advocates assigned to judicial billets must possess a strong background in military justice, sound judgment, an even temperament, unquestioned maturity of character, and exemplary writing skills. Further, as senior officers with significant responsibility over junior officers, military judges must be both mentors and role models and have strong leadership skills. Military trial judges, in particular, should be sufficiently skilled in litigation to understand the challenges of litigation from the litigants' perspective, and prior service as both a government and a defense counsel is an important consideration in judicial selection. This instruction will ensure that only highly qualified judge advocates are recommended to the JAG for assignment to judicial billets.

4. Board Membership. The following personnel are designated as Board members:

a. Assistant Judge Advocate General (AJAG) (Chief Judge, Department of the Navy) (CJDON);

b. AJAG (Military Justice);

c. Chief Judge, Navy-Marine Corps Court of Criminal Appeals;

d. Chief Judge, Navy-Marine Corps Trial Judiciary;

e. Deputy Director Judge Advocate Division (JAD), Headquarters Marine Corps (HQMC), or if that officer is unavailable, the Deputy Staff Judge Advocate to the Commandant; and,

f. When the Board considers applications from Reserve component officers, the Officer-in-Charge (OIC) of the Marine Reserve judiciary unit and either the Commanding Officer (CO) of Navy Reserve trial unit or the Navy Reserve Appellate judiciary unit.

g. Additional members may be appointed on an ad hoc basis. To the extent practicable, the Board membership should reflect the composition of the applicant pool, including women and minorities.

h. The AJAG (CJDON) will serve as Chair of the Board. The AJAG (Military Justice) will serve as the Vice Chair of the Board and as Chair in the absence of the AJAG (CJDON). A Recorder will be appointed, as well as an Assistant Recorder, if necessary.

i. Any Board member listed within this paragraph who intends to submit an application to the Board must notify the AJAG (CJDON) prior to the convening of any Board. Any Board member who has an application under consideration by the Board shall be ineligible to participate as a Board member.

5. Applicants

a. Screening. Applicants must be screened by the Board prior to being detailed to any active-duty military judge billet, assigned to a reserve military judge billet, or enrolled in the annual Military Judges Course at The U.S. Army Judge Advocate General's Legal Center and School in Charlottesville, Virginia. A format for the screening request is provided at enclosure (1).

b. Minimum Requirements. Unless a waiver is requested and approved by the JAG, in order to be considered as highly-qualified, an applicant must establish, at a minimum, the requirements set forth below.

(1) Trial Judiciary

(a) At least four years in active-duty criminal or civil litigation billets (e.g., trial/defense counsel, appellate litigation, Office of the Judge Advocate General (OJAG) Code 14, Office of Military Commissions, Special Assistant U.S. Attorney); and

(b) A leadership tour in criminal or civil litigation (e.g., senior trial/defense counsel, Trial Counsel Assistance Program, Defense Counsel Assistance Program, OIC of a Legal Services Support Team, Regional Trial or Defense Counsel) or significant military justice

experience as a staff judge advocate, command services attorney, OJAG Code 20, or JAD HQMC.

(c) Reserve component applicants without the desired active-duty experience must specify comparable civilian or Reserve experience in their applications.

(2) Appellate Judiciary

(a) At least 12 years of experience in the practice of law. To qualify as a year in the practice of law, the applicant's primary duties for the year must meet the definition of the practice of law to be provided in reference (e). This requirement may not be waived;

(b) At least two years in active-duty criminal or civil litigation billets (e.g., trial/defense counsel, appellate litigation, OJAG Code 14, Office of Military Commissions, Special Assistant U.S. Attorney); and

(c) A leadership tour in criminal or civil litigation (e.g., senior trial/defense counsel, Trial Counsel Assistance Program, Defense Counsel Assistance Program, OIC of a Legal Services Support Team, Regional Trial or Defense Counsel) or significant military justice experience as a staff judge advocate, command services attorney, OJAG Code 20, or JAD HQMC.

(d) Reserve component applicants without the desired active-duty experience must specify comparable civilian or Reserve experience in their applications.

c. Active and Reserve Component Marine Corps Applicants. Marine judge advocates in the rank of Lieutenant Colonel and above may apply for screening for the trial judiciary, appellate judiciary, or both. Marine judge advocates in the rank of major may only apply for screening for the trial judiciary.

d. Active and Reserve Component Navy Applicants. Navy judge advocates who have selected for commander or above may apply for judicial screening for the trial judiciary, appellate judiciary, or both. Navy judge advocates in the rank of lieutenant commander may only apply for Special Court-Martial Military Judge screening. Special Court-Martial Military Judges are subject to the same screening requirements contained in 5(b)(2).

e. Reserve Component Navy Applicants. Prior to the application deadline for the Board, the Deputy JAG for Reserve Affairs and Operations (RA&O) may release additional reserve-unique administrative guidance on eligibility requirements for billets in the Reserve trial and appellate judiciary units that is supplemental to and not inconsistent with the provisions of this instruction.

f. Rescreening. Screened judge advocates who do not report to their first judicial assignment within four years from the date of announcement of JAG approval of their screening must be rescreened. Additionally, prior military judges who do not return to the bench within four years of their last judicial assignment must be rescreened. The AJAG (CJDON) may also direct

rescreening to review relevant matters not previously considered or any significant change in circumstances to ensure previously screened judge advocates remain in continued compliance with Article 26 and Article 66 of reference (a) and this instruction. A format for the rescreening request is provided at enclosure (1).

g. No military judge shall be assigned to the trial or appellate judiciary without having at least three years remaining between the date they are assigned to the judiciary and their statutory mandatory retirement date, absent exceptional circumstances and a waiver granted by the JAG.

h. State Court or Article III Reserve Component Applicants. Reserve judge advocates who are serving as full-time state court or Article III judges may complete the abbreviated application found at enclosure (2). The applicant must provide a statement from the Chief Judge of the court on which the applicant serves that verifies the applicant's state court or Article III judicial status. Sitting state court or Article III judges must otherwise comply with this instruction.

i. If the applicant does not meet the minimum experience levels required, but otherwise possesses the requisite education, training, experience, and judicial temperament for duty as a military judge, the applicant shall submit a request for a waiver of the requirements in a separate letter to the JAG via the Board and note the waiver request on the cover page of the application. The screening Board will note waiver requests in its Board Report and make recommendations to the JAG concerning approval of the waiver. The requirement of a minimum of 12 years of experience in the practice of law for the appellate judiciary cannot be waived.

6. Procedures

a. Board Announcement. The CJDON will notify the Navy and Marine judge advocate communities of the date of the Board approximately six weeks prior to the scheduled date.

b. Application Routing. As reflected in enclosure (1), Marine applicants should copy JAD HQMC on their application and Navy Reserve applicants should copy the Deputy Director for Military Justice, Navy Reserve Law Program.

c. Application Requirements. Absent a specific waiver by AJAG (CJDON), an application must include the following:

(1) Request for Screening to Trial and/or Appellate Judiciary. The applicant shall state specifically whether screening is requested for the trial bench, the appellate bench, or both.

(2) Reporting Senior Endorsement. All applicants must submit their application via their current reporting senior. The reporting senior's endorsement must specifically address the applicant' s judgment, temperament, maturity, mentoring, and leadership, as well as whether the applicant is recommended for a judicial assignment as a trial judge, appellate judge, or both.

(3) Two Appraisals. Using enclosure (3), the applicant must provide two appraisals from senior judge advocates who have had a significant opportunity to observe the applicant's

military justice practice, judgment, temperament, maturity, leadership, mentoring, and writing skills, as well as whether the applicant is recommended for a judicial assignment as a trial judge, appellate judge, or both. At least one of these appraisals must be from a current or former military judge before whom the applicant practiced. If the applicant cannot obtain an appraisal from such a military judge, the applicant must clearly address the reason for its absence in his or her application. In lieu of an appraisal from a military judge, reserve component applicants may substitute an appraisal from a current or former civilian judge before whom the applicant practiced.

(4) LL.M. Transcripts. The applicant must submit all LL.M. transcripts (if applicable). Unofficial or student copies are acceptable.

(5) Officer and Performance Summary Records/Master Brief Sheet. Navy applicants must submit a copy of their Officer Summary Record and Performance Summary Record. Marine applicants must submit a copy of their Master Brief Sheet.

(6) Duty Stations and Billet Assignments List/Civilian Positions. The application shall include a list of billets in chronological order, and provide the dates (e.g., 7/14 – 8/16) during which the applicant served in the billets. Reserve applicants should identify whether the billets were held in an active duty or Reserve status. Reserve applicants should also list civilian positions held since leaving active duty status and should describe the general nature of their current legal practice, including areas of specialization and a general description of their client base, if any. If applicable, the list shall include the number of attorneys supervised in any particular billet or position. Applicants shall note for each billet or position if they were "practicing law" as defined in reference (e). If an applicant believes that a particular billet or position does not clearly meet the definition of the practice of law, the applicant is highly encouraged to explain why the duties of this billet or position qualify as "the practice of law."

(7) Litigation Experience List. The applicant shall list the total number of cases tried by the applicant as lead trial or defense counsel, distinguishing between the number of cases that were contested before members and before a judge alone. The applicant may include other cases in which the applicant served in a supervisory role or as "second chair." The applicant shall also include a brief description of three to five significant cases tried, including the location of the trials, the approximate dates, the applicant's role at trial, and the judges before whom the cases were tried. If applicable, the applicant shall also list the total number of appellate cases, and may include a brief description of any significant cases, to include the court before which it was heard, and the approximate dates. Please note, that while not disqualifying, well rounded applicants will have spent significant time as both a trial and defense counsel. Reserve component applicants may list significant and relevant civilian cases and/or matters tried by the applicant in his or her civilian capacity.

(8) Potential Conflicts. In addition to determining whether an applicant is highly qualified, the Board is charged with considering whether conflicts exist that may preclude or restrict judicial assignment. Disclosure of potential conflicts remains a crucial and continuing responsibility of an applicant even after assignment to the judiciary. "Deference to the judgments and rulings of courts depends upon public confidence in the integrity and

independence of judges, jurists must avoid even the appearance of partiality." In re Al - Nashiri, 921 F.3d 224, 234 (D.C. Cir. 2019) (citing United States v. Microsoft Corp., 253 F.3d 34, 115 (D.C. Cir. 2001) (quoting Code of Conduct for United States Judges, Canon 1 cmt. (2000)). Prior to submission of an application, applicants should consult reference (e) and the American Bar Association's (ABA) Model Code of Judicial Conduct regarding conflicts of interest. When weighing whether to disclose a potential conflict, an applicant is advised to err on the side of disclosure. Additionally, the applicant shall answer the following questions:

(a) Have you, your spouse, significant other, or family member been employed by a law enforcement agency or received any law enforcement training, civilian or military (either before or after entering the military service)? Has your spouse, significant other, or family member been employed as an attorney, paralegal, or legal assistant within the past five years? If so, state the name of the agency or legal employer and the position(s) held.

(b) Have you sought out or do you intend on seeking employment with any federal governmental agency after military service? If so, please specify the agency and the extent of your interaction. Should you decide to pursue such employment while sitting as a trial or appellate judge, you must notify the Chief Judge of the Court on which you sit.

(c) Reserve applicants who are state or federal prosecutors:

1. Identify the jurisdiction where you prosecute.

2. Does your practice include consultation or coordination with military trial counsel? If so, describe the nature of that relationship.

3. Does your office interact, consult, coordinate or liaise with military law enforcement, including CID, NCIS, military police, or DoD security personnel? If so, describe the nature of any relationship between your office and any military law enforcement personnel, to include whether your office calls these military law enforcement personnel as witnesses in criminal prosecutions in the jurisdiction where you prosecute.

(d) Reserve applicants who are criminal defense attorneys, either in private practice or as an employee of a governmental agency:

1. Identify the jurisdiction where you practice.

2. Do you or your firm or office represent military personnel before military trial or appellate courts? Describe the nature of your practice before military courts, being specific about which service trial and appellate courts you or your firm or office practice before, and whether you or your firm or office practice before the Court of Appeals for the Armed Forces or U.S. Supreme Court in appeals from military court-martial convictions.

3. If you are in private practice, do you or your firm represent military personnel in civilian criminal prosecutions?

4. If you are in private practice, do you or your firm represent clients as victims' legal counsel before military courts?

(e) Are you aware of any actual or apparent conflicts not otherwise disclosed in this application that may interfere with the duties of a trial or appellate judicial billet?

(9) Personal Statement. The applicant must explain why he or she desires judicial assignment. In addition, each applicant must address the following:

(a) Whether the applicant is currently engaged in litigation against the United States or its officers;

(b) Whether the applicant, serving as either a trial and/or appellate judge, can give fair consideration to the entire range of permissible punishments authorized by law in each case;

(c) Affirm the applicant has not participated in any organization that espouses supremacist causes; attempts to create illegal discrimination based on race, creed, color, ethnicity, national origin, sex, religion, advocates using force or violence; or otherwise engages in efforts to deprive individuals of their civil rights; and

(d) Affirm the applicant is aware that judicial screening will allow, but not guarantee, the applicant's assignment to a judicial billet, and that he or she may be transferred to a judicial billet prior to the termination of any currently slated non-command billet.

(10) Good Standing Documentation. The applicant must submit acceptable documentation certifying they remain in good standing with their licensing authorities. The definition of good standing and examples of acceptable documentation can be found in references (e) and (f), respectively. The applicant must also completely disclose his or her professional responsibility complaint history, including any professional responsibility complaints made to any licensing authority or to any Rules Counsel (AJAG (CJDON), AJAG (Civil Law), and/or Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC)) under the auspices of the JAG. If the applicant has a professional responsibility complaint history, then the applicant must include a copy of the letter closing out the complaint from the licensing authority and/or Rules Counsel(s), as applicable, along with a brief summary of the complaint history. If such a letter is not available, then the applicant must explain the unavailability and provide sufficient detail of the complaint and its resolution to permit consideration of the complaint by the Board. If the applicant has no professional responsibility complaint history, he or she must certify that fact.

(11) Adverse Matters. The applicant must answer the following questions:

(a) During the last ten years, have you been subject to punishment under Article 15 of reference (a) (i.e., non-judicial punishment)? If yes, provide the date, an explanation of the events, and name/address of the CO imposing the disciplinary punishment.

(b) During the last ten years, have you been arrested, convicted, imprisoned, on probation, or on parole? (Do not include minor infractions such as moving violations and

parking tickets unless such infractions resulted in a misdemeanor or felony conviction, imprisonment, probation, or parole.) If yes, provide the date, an explanation of the violation, place of occurrence, and name/address of police department or court.

(c) During the last five years, have you received letters of instruction or written adverse counseling, not to include non-punitive censure (i.e., non-punitive letters of caution)? If yes, the applicant must provide the date, explanation of the adverse matter, place of occurrence, and name/address of officer signing/providing the letter of instruction/written adverse counseling.

(12) Notification Requirement. Applicants must acknowledge they have a continuing responsibility before and after selection/certification to notify the Board via the AJAG (CJDON) of any significant changes to the information presented in their application. This requirement does not apply to routine military reassignments, but Reserve applicants must report changes in civilian employment.

(13) Waiver. For good cause, an applicant may request waiver of any application requirement listed in section 6(c) in this instruction by written correspondence to the AJAG (CJDON), received at least seven calendar days prior to the announced application deadline. In the absence of an approved extension request discussed below, all required components of the application must be received by the announced application deadline.

(14) Extension Request. For good cause, an applicant may request an extension of the announced application deadline by written correspondence to the AJAG (CJDON) received at least seven calendar days prior to the announced application deadline.

d. Meetings. The Board will normally meet annually in December. However, as a standing board, the Chair may call the Board into session for good cause throughout the calendar year. A majority of the Board members will constitute a quorum. The Chair may authorize Board members to participate via telephone or other electronic means warranted for good cause.

e. Precept. The Board will operate according to the annual precept forwarded by the JAG to the Chair.

f. Review and Voting. The Board will consider each applicant and will vote whether to recommend that judge advocate as "highly qualified" for assignment to a judicial billet. Voting will be by secret ballot. A favorable majority vote of the participating Board members will constitute a recommendation that the judge advocate is highly qualified for judicial assignment. In the case of a tie, the Chair's appraisal will prevail; such a tie must be reported to the JAG. An unrestricted recommendation by the Board will be a recommendation for assignment to either the trial or appellate bench. The Board, in its discretion, may restrict its recommendation of an applicant for assignment to only the trial or the appellate bench. The Board may also discuss and consider whether an applicant who is otherwise "highly qualified" may be restricted from judicial assignment pending resolution of actual or apparent conflicts raised by other legal assignments, duties, or employment. The Board is authorized to vote applicants as "highly qualified; advisory opinion regarding conflicts required."

g. Professional Responsibility Review and Coordination

(1) Following the Board, the AJAG (CJDON) will compile a complete list of the Board-recommended applicants and, as Rules Counsel for cases involving Navy and Marine Corps trial and appellate judges, per reference (e), review any existing OJAG Professional Responsibility (PR) files regarding a Board-recommended applicant, whether such PR file(s) is/are held and maintained by any of the respective Rules Counsel offices (i.e., AJAG (CJDON), AJAG (Civil Law), and/or SJA to CMC). Upon request from AJAG (CJDON), the respective Rules Counsel offices will provide:

(a) A list of Board-recommended applicant(s) with any PR complaint;

(b) The disposition and a copy of the corresponding close-out letter(s) provided to the attorney in all cases, if available, or if no close-out letter was provided to the attorney, the close-out letter provided to the complainant; and

(c) Access to the PR file in cases in which a violation of the PR rules was found or the close-out letter raises a question of fitness for judicial appointment.

(2) By endorsement to the JAG, the AJAG (CJDON) will notify the JAG of the existence of any applicable PR files or the nature of any ethical issues or conflicts of interest that may preclude service as a military judge, and provide the JAG with an opinion and recommendation regarding the suitability of the recommended applicant for judicial assignment, notwithstanding the Board's recommendation. The AJAG (CJDON) may recommend that an officer determined to be "highly qualified" not be screened for assignment to the judiciary in light of ethical issues or conflicts of interest that are not amenable to resolution.

h. Report of Proceedings. The Chair must submit a Report of Proceedings (ROP) to the JAG, via the Deputy JAG (RA&O) (for all reports that include Navy Reserve applicants), the SJA to the CMC (for all reports that include Marine Corps applicants), and the Deputy JAG, that summarizes the Board's proceedings and appraisals. The Board Recorder will provide administrative support to AJAG (CJDON) in preparing the report. The AJAG (CJDON) will maintain the Board ROPs by convening date.

i. The Board's recommendations are advisory in nature and do not restrict, in any manner, the JAG's statutory authority to make judicial assignments and to certify judges as qualified under Article 26(b) of reference (a), nor does it confer any rights or entitlements to a judge advocate recommended for judicial assignment.

7. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned per the records disposition schedules located on the Department of the Navy Directorate for Administration, Logistics, and Operations, Directives and Records Management Division portal page at

https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information-Management/Approved%20Record%20Schedules/Forms/AllItems.aspx

8. Point of Contact. Special Assistant to the AJAG (CJDON) at (202) 685-5920.

John G. Hannink
JOHN G. HANNINK

Releasability and distribution:
This change transmittal is cleared for public release and is available electronically only via Department of the Navy Issuances Web site, https://www.secnav.navy.mil/doni/default.aspx

From: Applicant
To: Chair, Judicial Screening Board
Via: Applicant's Reporting Senior

Subj: REQUEST FOR JUDICIAL SCREENING ICO APPLICANT, JAGC, USN

Ref: (a) JAGINST 5817.1K

Encl: (1) CAPT Military Judge, JAGC, USN appraisal of 30 Sep 19
(2) CDR Senior Officer, JAGC, USN appraisal of 10 Oct 19
(3) LL.M. transcript (if applicable)
(4) Copy of Officer Summary Record/Master Brief Sheet
(5) Copy of Performance Summary Record
(6) Letter(s) of Good Standing

1. Pursuant to reference (a), I hereby request (*screening/rescreening*) for (*the trial judiciary/the appellate judiciary/both the trial and appellate judiciary*). (I was last screened by the 20 *xx* Judicial Screening Board.)

2. In addition to enclosures (1) through (*x*), the following information is provided:

a. Litigation Experience. As lead counsel, I have (*prosecuted/defended*) approximately ___ courts-martial, of which ___ were members' cases. Additional details are provided below.

(1) General Summary of Cases Tried: At (*command*), I served as lead trial counsel in over _____ general and special courts-martial. Of those, ____ were fully contested members trials. While serving as the Assistant Senior Defense Counsel for (*command*), I was lead defense counsel on _____ cases, including _____ contested courts-martial in front of members. I sat second chair as the supervisory counsel in _____ members' trials. In my current assignment as the Senior Defense Counsel for (*command*), I have personally defended ____ courts-martial, _____ of which were contested in front of members. Additionally, I have sat second chair as supervisory counsel during _____ contested trials.

(2) Additional Experience (*optional*): I submit the following related information for consideration by the Board: a) At the United States Naval Academy, I was a Special Assistant U.S. Attorney for the District of Maryland, Northern Division, handling over _____ cases in a two year period; b) While in two staff/command judge advocate positions, I served as an Investigating Officer in _____ Article 32 hearings; and c) During my two defense counsel tours, I defended clients at ____ Article 32 hearings that resulted in no referral.

(3) Brief Description of Significant Cases Tried: (*Provide short synopsis of 3 – 4 cases, significant motions practice or issues, your role, location of trial, date and name of military judge.*)

(a) U.S. v. Andrews: General court-martial involving a petty officer accused of killing his six month old child. The accused was initially charged in State court, but his statement to local police was ruled inadmissible by the trial judge and his case was dismissed. His statement was introduced at his subsequent court-martial over defense objection. Significant motions practice to pre-admit the accused's statement. Case involved presentation of complex medical evidence and expert testimony. Lead TC; San Diego, 2005; Military Judge - CAPT Smith.

(b) U.S. v. Duncan: General court-martial involving a petty officer accused of domestic violence (battery) against various civilian partners spanning several years and a sexual assault against a military member. Case was complicated by reluctance of many civilian witnesses to cooperate and ongoing relationship between accused and complaining witness. Significant M.R.E. 412 litigation pretrial; exceptionally proactive role by Victim's Legal Counsel. Lead DC; Yokosuka, 2014; Military Judge – CAPT Baldwin

b. Duty Stations and Billet Assignments. (*Provide command, primary duties, dates, and number of attorneys supervised, if applicable. State if you were practicing law in each billet. Reserve applicants must identify whether billets are active or reserve.*)

(1) Trial Service Office Southwest, Trial Counsel, December 2003 – June 2006. (Practicing law)

(2) Task Force 134, Iraq, Detainee Operations, October 2004 – March 2005. (Practicing law)

(3) United States Naval Academy, Assistant Professor and Special Assistant U.S. Attorney for the District of Maryland Northern Division, June 2006 – June 2008. (Practicing law)

(4) Commander, Naval Air Forces Pacific, Deputy Staff Judge Advocate, June 2008 – May 2010. (Practicing law)

(5) NLSO MIDLANT, Assistant Senior Defense Counsel (supervised seven attorneys), May 2010 – June 2012. (Practicing law)

(6) USS GEORGE H.W. BUSH, Command Judge Advocate (supervised one attorney and four paralegals), July 2012 – July 2014. (Practicing law)

(7) DSO Pacific, Senior Defense Counsel (currently supervise 8 attorneys), August 2014 - present. (Practicing law)

c. Civilian Positions (*Reserve applicants only– Describe civilian positions held since leaving active duty and the general nature of your current legal practice, areas of specialization, and, as applicable, your client base and number of attorneys supervised. State if you were practicing law in each position)*

(1) U.S. Attorney's Office Eastern District of Virginia, Alexandria, VA, January 2013 – present. Assistant U.S. Attorney assigned to the Major Crimes and Narcotics Unit prosecuting felony offenses in the Eastern District of Virginia. (Practicing law)

d. Personal Statement

(1) *State why you desire judicial assignment.*

(2) If called upon to adjudge a sentence, or as an appellate judge to assess a sentence, I (*am/am not*) able to give fair consideration to the entire range of permissible punishments authorized by law in each case.

(3) I am a member in good standing of the _____ State Bar(s) (*with no history of professional responsibility complaints*). (*Disclose any professional responsibility complaint history.*)

(4) I have not participated in any organization that espouses supremacist causes; attempts to create illegal discrimination based on race, creed, color, ethnicity, national origin, sex, religion, advocates using force or violence, or otherwise engages in efforts to deprive individuals of their civil rights.

(5) I understand that I have a continuing responsibility before and, if selected, after screening to notify the Board of any significant changes to the information presented in this application. (*Reserve applicants must report changes in civilian employment.*)

e. Disclosures for Conflict Review

(1) I (*am/am not*) currently engaged in litigation as a party opponent against the United States, the Department of the Navy, or any of its officers, including as a member of a class action.

(2) I (*am/am not*) aware of actual or apparent conflict(s) not otherwise disclosed in my application that may interfere with my duties if assigned to a trial or appellate judicial billet.

(3) *Have you, your spouse, significant other, or family member been employed by a law enforcement agency or received any law enforcement training, civilian or military (either before or after entering the military service)?*

(4) *If your spouse has been employed in law enforcement or as an attorney, paralegal, or legal assistant in the past five years, identify the agency/employer and position(s) held.*

(5) *Have you sought out or do you intend on seeking employment with any federal governmental agency after military service? If so, please specify the agency and the extent of your interaction.*

(6) *Reserve applicants must address relevant provisions of paragraphs 6.c.(8)(b) and (c)*

of reference (a).

f. Adverse Matters

(1) During the last ten years, I (*have/have not*) been subject to non-judicial punishment. (*Explain circumstances.*)

(2) During the last ten years, I (*have/have not*) been arrested, convicted, imprisoned, on probation, or on parole. (Do not include minor infractions such as moving violations and parking tickets unless such infractions resulted in a misdemeanor or felony conviction, imprisonment, probation, or parole.) (*Explain circumstances.*)

(3) During the last five years, I (*have/have not*) received letters of instruction or written adverse counseling. (*Explain circumstances.*)

APPLICANT

Copy to:
JAD HQMC (as applicable)
Navy Reserve Law Program Military Justice (Pillar I) Lead (as applicable)

JAGINST 5817.1K

JUL 1 4 2021

Date

From: Applicant
To: Judge Advocate General / Staff Judge Advocate to the Commandant of the Marine Corps
Via: Applicant's Reporting Senior

Subj: REQUEST FOR JUDICIAL ASSIGNMENT FOR A SITTING JUDGE

Ref: JAGINST 5817.1J

Encl: (1) Letter from Chief Judge (Civilian)
(2) Copy of Officer Summary Record / Master Brief Sheet
(3) Copy of Performance Summary Record

1. Pursuant to reference (a), I hereby request assignment to a (*trial/appellate/both the trial and appellate*) judicial billet. I am a full-time, sitting judge on the (*xxx*) Court in (*the State of x*). I was (*elected/appointed*) to this position in 20xx and my term (*expires in 20xx/is a lifetime appointment*).

2. In addition to enclosures (1) through (4), the following information is provided:

a. Judicial Experience. As an (*xxx*) court judge, the docket over which I preside contains (*provide a short synopsis of the types of cases, e.g., criminal, felony, misdemeanor, civil, etc.*).

b. Personal Statement

(1) *State why you desire judicial assignment.*

(2) If called upon to adjudge a sentence, or as an appellate judge to assess a sentence, I (*am/am not*) able to give fair consideration to the entire range of permissible punishments authorized by law in each case.

(3) I am a member in good standing of the _____ State Bar(s) (*with no history of professional responsibility complaints*). (*Disclose any professional responsibility complaint history.*)

(4) I have not participated in any organization that espouses supremacist causes; attempts to create illegal discrimination based on race, creed, color, ethnicity, national origin, sex, religion, advocates using force or violence; or otherwise engages in efforts to deprive individuals of their civil rights.

(5) I understand that I have a continuing responsibility before and, if selected, after screening to notify the Board of any significant changes to the information presented in this application.

c. Disclosures for Conflict Review

(1) I (*am/am not*) currently engaged in litigation as a party opponent against the United States, the Department of the Navy, or any of its officers, including as a member of a class action.

(2) I (*am/am not*) aware of actual or apparent conflict(s) not otherwise disclosed in my application that may interfere with my duties if assigned to a trial or appellate judicial billet.

(3) *If your spouse has been employed in law enforcement or as an attorney, paralegal, or legal assistant in the past five years, identify the agency/employer and position(s) held.*

(4) *Have you, your spouse, significant other, or family member been employed by a law enforcement agency or received any law enforcement training, civilian or military (either before or after entering the military service)?*

d. Adverse Matters

(1) During the last ten years, I (*have/have not*) been subject to non-judicial punishment. (*Explain circumstances.*)

(2) During the last ten years, I (*have/have not*) been arrested, convicted, imprisoned, on probation, or on parole. (Do not include minor infractions such as moving violations and parking tickets unless such infractions resulted in a misdemeanor or felony conviction, imprisonment, probation, or parole.) (*Explain circumstances.*)

(3) During the last five years, I (*have/have not*) received letters of instruction or written adverse counseling. (*Explain circumstances.*)

(4) I (*have/have not*) had any complaints filed regarding my fitness or suitability as a judge. (*Explain circumstances.*)

APPLICANT

Copy to:
JAD HQMC (as applicable)
Navy Reserve Law Program Military Justice (Pillar I) Lead (as applicable)

Judicial Screening Board Appraisal Form

1. General Information

   a. Name of Applicant:

   b. Name of Rater:

   c. Time you have known Applicant:

   d. Nature of relationship between you and the Applicant:

   e. Number of Applicant's cases that you have personally observed:

   f. Date:

2. For All JSB Applicants

a. As noted in JAGINST 5817.1K, the Judicial Screening Board (JSB) instruction, judge advocates assigned to judicial billets must possess a suitable background in military justice, sound judgment, even temperament, unquestioned maturity of character, and exemplary writing skills. This appraisal form aids the Judicial Screening Board in assessing whether applicants possess the skills and traits required. **In completing this form, please be mindful of whether the applicant is requesting to be screened for the trial bench, the appellate bench, or both, as requirements for the two benches differ slightly.**

b. Please rate the applicant's abilities in the below four areas, using a rating of 1 to 10 (with 10 being the highest). If you have not had a sufficient opportunity to observe the applicant in any area, please indicate "no opinion." For each of the ratings, please provide a short explanation of the basis for your opinion.

(1) Military Justice Expertise. To meet the demands of the current docket, applicants for the trial bench must have significant litigation expertise, a high degree of familiarity with the rules of evidence and the rules of criminal procedure, and leadership experience in military justice litigation positions. The minimum qualification for the trial bench is **four years** experience in litigation billets. The minimum qualification for the appellate bench is **two years** experience in litigation billets. Active component applicants for the appellate bench should also possess significant military justice experience as a staff judge advocate, command services attorney, or as a staff attorney at Judge Advocate Division Headquarters Marine Corps or the Office of the Judge Advocate General Code 20. Reserve component applicants for the appellate bench should also possess commensurate reserve experience or civilian litigation experience.

Against this standard, I rate this applicant as: 1

Basis:

(2) Legal Research and Written Communication. Because of the high volume of pretrial motions litigation, trial judges must possess a proven capacity to research and write rulings that clearly articulate findings of fact, identify the legal standard, and enunciate succinct conclusions of law. Moreover, applicants must possess the capacity to do so on short notice and within a compressed period of time. Similarly, appellate judges must review and resolve a tremendous volume of issues on strict timelines imposed by law. Consequently, applicants for the appellate bench must have a demonstrated capacity to deliver high-quality written legal opinions in a high-volume environment with finite timelines.

Against this standard, I rate this applicant as: 1

Basis:

(3) Ethical Decision-Making and Judgment. Military judges must maintain the highest standards of character, conduct, and integrity. Because they sit in judgment on Marines and Sailors, they should expect to be held to the highest standards for their own conduct. Military judges are subject to an exceptional degree of scrutiny both on and off the bench: from the parties, the accused, witnesses, the larger military community, and the media. As the guardians of the court-martial process, they must ensure its fairness and transparency. Finally, they must have the courage to make tough, independent decisions.

Against this standard, I rate this applicant as: 1

Basis:

(4) Judicial Temperament. Trial judges must embody composure, maturity, reasonableness, and an even keel, even in the most hotly-contested trials. They must commit to treating all courts-martial participants with dignity and respect regardless of the nature of the case or maximum punishment. Military trial judges must also manage busy dockets and maintain dignified control of the courtroom to ensure efficiency, fundamental fairness, and professional legal proceedings. Appellate judges must commit to work collegially as a member of a panel and the court, to listen to and consider opinions contrary to their own, and to treat all members of the court and staff with the civility and respect necessary for a successful appellate court.

Against this standard, I rate this applicant as: 1

Basis:

3. For all Raters submitting an appraisal on more than one (1) Applicant before a single Judicial Screening Board:

a. I rate this person as my number ( ) out of ( ) applicants.

4. Additional comments, if desired, may be added below.