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HADITHA: CBS Fights the Corps

by Nathaniel R. Helms | Wednesday, September 17, 2008, 5:33 PM EASTERN

The CBS television network battled it out with the Marine Corps Wednesday morning at the US Court of Appeals for the Armed Forces in Washington, D.C. The fight is over outtakes from a *60 Minutes* interview with a Marine sergeant accused of killing civilians in Haditha, Iraq.

Lawyers representing the three sides (the Marine Corps, CBS and SSgt Frank Wuterich) told the five-judge panel why, and why not, the Marine Corps should be entitled to video recordings the news program didn't use.

The interview was conducted by correspondent Scott Pelley for the *60 Minutes* investigation, "The Killings in Haditha". It was originally broadcast on March 18, 2007 and has been rebroadcast twice since.

The judges heard several mutually exclusive arguments.

The Marines said a lower court that refused them the video erred and its decision should be reversed.

Lawyers for CBS argued the Marine Corps has no right to its property. The Navy-Marine Corps Court of Criminal Appeals in June denied a CBS motion to quash the subpoena demanding the video.

Instead, it ordered the military judge presiding over Wuterich's court-martial to review the outtakes in his chambers to determine if they contain anything incriminating before absolutely refusing to give the Marine Corps what it wants.

Navy Lt Kathleen Kadlec, a JAG lawyer representing Wuterich, asked the court to review the lower court order for the trial judge to review the tapes. Defense attorneys simply don't want the video to be included in the government's body of evidence.

Wuterich has been in legal limbo since he was charged with murder and other war crimes on December 21, 2006. Seven co-defendants have either been exonerated in pre-trial maneuvering or by acquittal.

The government is appealing the dismissal of charges against LtCol Jeffrey Chessani, Wuterich's battalion commander at Haditha. Early this summer, the military judge presiding over the career Marines' case dismissed the charges against him after determining Chessani was a victim of unlawful command influence.

William Decicco, the Clerk of the US Court of Appeals for the Armed Forces, said he "can't even hazard a guess on a time frame" when the judges will rule on the arguments.

"The judges will give it a high priority," Decicco said.

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Note: Nat Helms is a Contributing Editor to **Defend Our Marines**. He is a Vietnam veteran, former police officer, war correspondent, and, most recently, author of [My Men Are My Heroes: The Brad Kasal Story](#) (Meredith Books, 2007).

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