

Former military lawyers question wisdom of Hasan defense attorney blogging about case

By Aleksandra Kulczuga - The Daily Caller 03/09/10 at 2:36 AM

One of America's highest-profile murder cases gained further notoriety last week when the defense attorney for Major Nidal Hasan, the man accused of killing 13 and wounding 30 in a November shooting at Fort Hood, Texas, publicly expressed his indignation over the trial online.

John P. Galligan, Hasan's civilian defense attorney, posted several blog entries in quick succession on his frustrations with access to evidence and witness testimony — even though he was under gag order.

The Daily Caller asked retired officers from the Judge Advocate General's (JAG) Corps — military lawyers — to comment on Galligan's actions.

Below screen shots are some of the titles of Galligan's posts:

Why Has The Army Delayed Release of Classified Information???

30 COMMENTS

2010 FEBRUARY 28

and:

Are They Afraid of What He Might Say? US Army Won't Let the Hasan Defense Team Question General Cone!

20 COMMENTS

2010 FEBRUARY 27

"The general rule of professional responsibility is that the attorney is not supposed to try their case in the court of public opinion, they're supposed to try it in the courtroom," said David P. Price, a retired Navy JAG officer now in private practice at Virginia Beach-based law firm JAG Defense.

"That's not to say that attorneys can't have press conferences. There are some cases where if an attorney can bring some attention to his case, he can get an obstinate opponent to move — sometimes it's the press attention that gets things going."

Galligan retired from the Army in 2001 and has since become known in the Fort Hood area as a go-to civilian defense attorney, often taking cases with low fees.

"I think he's got to be careful — he's directly commenting on rulings and evidence — he's got to be careful that he's not crossing the line," said Greg Rinckey, a former Army JAG officer and currently managing partner of the law firm Tulle Rinckey.

"Military judges are the equivalent of federal judges and they could sanction him, they could report him to his local bar."

"The judge wants to see a fair trial, and if the judge sees him violating a gag order he'll throw him off the case," said Rinckey, admitting it's a rarely seen measure. If the attorney's conduct did rise to that level, it would be the No. 1 issue in the defendant's appeal if he were convicted.

“Publicity can control a case, but you have to be careful,” he said, adding that a good attorney should know how to leverage exposure for maximum desired effect.

The gag order in question pertains to an order the presiding authority made that prevents the defense from commenting on classified evidence. On his blog, Galligan wrote: “Needless to say, Army prosecutors have had access to this same information for the past several months.” It’s also worth noting the Army prosecutors didn’t blog about it.

Requests for comment to Mr. Galligan and Fort Hood officials went unreturned.