

**UNITED STATES v. MAJOR JASON P. WATSON, USAF**  
**ARTICLE 32 PRELIMINARY HEARING — DEFENSE CLOSING ARGUMENT**

**I. Opening**

Sir, thank you. My name is Christopher Mutimer. Together with my co-counsel — Major Heather Bruha, Special Counsel Lorena Marez, and Mr. Collin Harris — I have the privilege of representing Major Jason Watson.

I want to begin with what this hearing is, and what it is not. A preliminary hearing considers four questions: whether the specifications allege offenses, whether there is probable cause to believe Major Watson committed them, whether this command has jurisdiction, and what the appropriate disposition of the case should be. I will focus my argument on two of them — probable cause and disposition — because those are where this case turns. The question before you is not whether Major Watson chose his words well, or whether you would have chosen them. It is narrower than that, and more important. It is whether there is probable cause to believe a crime was committed, and, if any charge survives, what should be done with this case. On both questions, the fair and equitable answer leads away from a general court-martial.

I will make three points. First, the heart of this case — the charge of contempt — asks you to treat criticism as contemptuous language, and therefore a crime. It is not. Second, Article 88 is one of the rarest charges in all of military law, and the way these matters are being handled today reveals a glaring inconsistency that should give this hearing pause. Third, even if some allegation survives, this case belongs at a special court-martial — the very forum the government itself chose for an officer who faced these same charges, and many more.

**II. The Standard**

Probable cause is not a turnstile. It is not enough to point at words and sit down. You weigh the whole of the circumstances — what was said, in what setting, and to what end.

Your recommendation on disposition is broad by design. It runs from dismissal at one end to a general court-martial at the other, and you are asked to recommend what is appropriate. Appropriateness is not measured in a vacuum. It is measured against the gravity of the conduct, and against how the government has treated conduct like it. I will ask you to hold this case up against that measure — and to see that equitable justice points in only one direction.

**III. Charge I — Article 88: The Difference Between Contempt and Criticism**

Charge I alleges contemptuous words against the President. So let us begin where the law begins — with the word the statute actually uses.

Article 88 punishes an officer who uses “**contemptuous words**” against the President and certain other officials. The offense is not criticism, or disagreement, or objection to a policy. The statute reaches contempt — and “contemptuous” is a defined term:

*“Contemptuous” means words, used against an official in either their official or private capacity, which are insulting, rude, and disdainful conduct, or which otherwise disrespectfully attribute to another a quality of meanness,*

*disreputableness, or worthlessness. The truth or falsity of the statement is immaterial.*

That definition is the government's burden, not ours. And notice what it requires. It is not enough that words are critical, or pointed, or unwelcome to the person they concern. The words must be insulting and disdainful; they must attribute to the official a quality of meanness, of disreputableness, of worthlessness. That is a demanding standard, and it is aimed at a particular thing — scorn directed at the person. It does not reach reasoned criticism of what an official has done.

Hold those two ideas next to each other, because everything in Charge I lives in the space between them. Contempt is aimed at the man; it seeks to degrade him. Criticism is aimed at the conduct; it seeks to change what the government is doing. One is scorn. The other is citizenship. The distance between them is the distance between a grievance and an argument.

Measured against that definition, none of these three specifications is contempt.

***Specification 1 — the June 2025 commentary***

This specification reaches back more than a year. Before you can weigh whether the words were contemptuous, the government must first prove that Major Watson is even the author — and this material was published under a pen name, not in uniform, and not over his signature as an officer. But set that aside. What the commentary criticizes is the President's conduct and character in office. That is criticism of a man's fitness to hold power, which is the oldest and most protected subject of political argument this country has. It is not the crime of contempt.

***Specification 2 — the Capitol statements (1 July 2026)***

Read what is actually alleged. That military operations cost service members their lives. That those operations were unlawful. And a call to impeach — to invoke the one remedy the Constitution itself provides for a President who has gone too far. All of it is directed at conduct rather than at the person, at policy rather than at pride. A call for impeachment is not an insult hurled at the office; it is an appeal to the office's own rules. That is criticism in political discussion, and it is exactly what the law protects.

***Specification 3 — the CNN interview (17 August 2026)***

Once more, this is public criticism of the President's conduct, in a broadcast interview, on a matter of the gravest public concern. Sharp, yes. Unwelcome to its subject, certainly. But sharpness is not scorn, and discomfort is not contempt. If emphatic criticism of a President were a crime, half the country would be in the brig, and every officer who ever questioned a policy would be a felon.

And there is a reason this line matters so much here. Consider the officer this same Department has held up as a model. In a video, in uniform, identifying himself by name and by command, Lieutenant Colonel Scheller said that he had — his words — **“a growing discontent and contempt”** for his senior leaders. Contempt. Not criticism — contempt, by name, in uniform. He was charged. Then he was praised. Then he was hired. If that word, spoken that way, was courage worth rewarding, then Major Watson's reasoned criticism of government conduct cannot be the crime of contempt. The law does not let the same word be a virtue in one officer's mouth and a felony in another's.

#### **IV. Charge II — Article 92: A Rare Line, Unevenly Drawn**

Charge II alleges violations of the directive governing political activity. I address the specifications that turn on speech and political activity — Specifications 1, 2, and 3 — because they carry the same flaw as Charge I, and one more besides.

The directive itself draws a line. A service member may hold political views and may voice them; what a service member may not do is participate in partisan political activity. The government says Major Watson crossed that line. This is where the inconsistency I mentioned becomes impossible to ignore.

Days ago, an active-duty sailor did not merely attend a national partisan political convention — he walked onto its stage. Not as a spectator in the seats, which the rule allows, but as part of the program itself: presented to the partisan crowd, holding a sign, under an announcement praising those “freed ... by President Trump.” That is participation in a partisan political event, and it is the plainest application of the very directive charged here. As of today, he has not been charged with anything.

I do not stand here asking that anyone else be prosecuted. I raise this for one narrow reason: it shows what this directive looks like applied evenhandedly, and what it looks like when it is not. The same rule, in the same week, produced a stage at a political convention on one hand and a general court-martial and months of confinement on the other. What separated those two outcomes was not the conduct. It was the direction the words were pointed. And a regulation enforced by the viewpoint of the speaker is not the neutral, lawful general regulation that Article 92 requires it to be.

#### **V. Charge III — Article 133: Conduct That Was Principled**

Charge III alleges conduct unbecoming an officer. The conduct it points to is the same conduct we have already discussed, and it meets the same answer, because this charge too turns on intent.

Conduct unbecoming is conduct that dishonors or disgraces — conduct touched by deceit, by cowardice, by self-dealing. Look for any of that in the conduct actually charged here and you will not find it. The two specifications of Charge III rest on the demonstration on the Capitol steps and the broadcast interview. In both, Major Watson stood in public, in his own name, in his own uniform, and said plainly what he believed. There was no deception in it and nothing hidden about it. He knew what it would cost him, and he is paying that cost in a cell as we speak. You may conclude that his judgment was mistaken. You cannot conclude that conduct carried out this openly, and at this price, was dishonorable. Principled dissent, offered in good faith and in full public view, is not a stain on the officer corps. It is the very thing the officer corps asks its members to have the courage to do.

#### **VI. Disposition — A Special Court-Martial, Not a General One**

Assume, for the sake of argument, that I am mistaken — that you find one or more specifications supported by probable cause. Even on that assumption, this case does not belong at a general court-martial. And the appropriate forum is not a matter of speculation, because the government has already answered the question in a case considerably graver than this one.

A general court-martial is the forum reserved for the most serious offenses — the felonies of military life, carrying its gravest punishments. A **special court-martial** is the forum for

misconduct of a lesser order. It is, in the civilian frame, the misdemeanor court. And it is exactly the forum the government chose for Lieutenant Colonel Scheller.

Consider what Lieutenant Colonel Scheller did, and how it was resolved. Over a period of weeks, in uniform, he publicly attacked his senior leaders and the Commander in Chief by name — again and again — in open defiance of a direct order to stop. He was charged under these same articles, Article 88 and Article 92 and Article 133, and under others besides, across **far more specifications than Major Watson faces**. And the government resolved all of it at a **special court-martial**. The sentence was a reprimand and a forfeiture of pay. There was no confinement approaching what Major Watson has already endured. He kept his liberty. He separated with his benefits.

And consider what came next. Pete Hegseth — first as a public commentator, and then from the office he now holds as Secretary of Defense — did not merely tolerate that conduct. He praised it. He called Lieutenant Colonel Scheller's public criticism **“the kind of backbone the vast majority of politicians would never show,”** and he thanked him for his “courage.” And then, upon becoming Secretary of Defense — upon taking charge of the very Department that prosecutes cases like this one — he brought Lieutenant Colonel Scheller into that Department and appointed him a senior advisor for personnel and readiness. The same conduct that drew a court-martial under one administration drew a court-martial, and then praise, and then a promotion under this one.

So weigh the two men side by side. For conduct that was, by any honest measure, more serious than what is alleged here — more personal, sustained over weeks, carried out in open defiance of an order — the government recommended a special court-martial, imposed no meaningful confinement, and then honored the officer who committed it. Major Watson stands accused of criticizing government policy and calling for a constitutional remedy, and he sits in solitary confinement awaiting a general court-martial. The conduct runs one way. The treatment runs the other. If Lieutenant Colonel Scheller's conduct belonged at a special court-martial, Major Watson's belongs no higher — and to send this case to a general court-martial would be to treat the lesser conduct as the graver one.

There is one more fact worth your attention. Major Watson formally requested to resign his commission — to step away quietly. Within twenty-four hours, that request was denied. He asked for the exit, and the government said no, choosing instead to keep him confined and press toward a general court-martial. A man who is trying to leave, and who is being held anyway, is not a danger to be contained.

## **VII. A Matter Reserved for the Military Judge**

I raise the comparison to Lieutenant Colonel Scheller for its bearing on disposition, and I want the record to be precise about its limits. Taken together with the circumstances of this case, it raises a further question — one I do not ask you to resolve today, but that the defense expressly reserves for the military judge.

That question is whether this prosecution can be squared with the even-handed administration of justice. The concern runs in two directions. On one side, this Department has treated public criticism of its leadership as honorable — worthy of praise, and of appointment to senior office — when the criticism was welcome. On the other, that same conduct is treated as criminal, and met with confinement, when the criticism is not. And all of it is unfolding in a public and political climate in which a decision perceived as lenient toward an officer who criticized the President carries its own visible risks for the person who makes it.

I make no accusation against anyone in this room. I have every confidence that this hearing will be decided on the law and the facts, and on nothing else. I raise the matter for one reason: so that the record reflects it, and so that your recommendation is made free of any influence but your own judgment. The full question of unlawful influence is one the defense reserves for the military judge.

### **VIII. Conclusion and Relief Requested**

Sir, Major Watson has given this country seventeen years. He is not a flight risk — the government's own witness told you so. He harmed no one. What he did, in the end, was speak, and believe that his oath ran to the Constitution rather than to any single official who holds power under it.

The defense respectfully requests two things. First, that you find **no probable cause** as to the contempt specifications of Charge I and the political-activity specifications of Charge II, because the conduct alleged — criticism of government policy in the course of political discussion — is not, as a matter of law, the offense of contempt or the offense of prohibited partisan participation. Second, that as to any specification you find supported, you recommend that this case **not be referred to a general court-martial**, but be resolved at a **special court-martial** — the same forum the government chose for materially graver conduct — or through administrative disposition.

I am not asking you to give Major Watson a break. I am asking you to give him the same measure the government has already used for conduct worse than his. That is not leniency. It is consistency — and consistency, applied evenly to the powerful and the powerless alike, is the only thing that makes any of this worth defending.

Thank you.