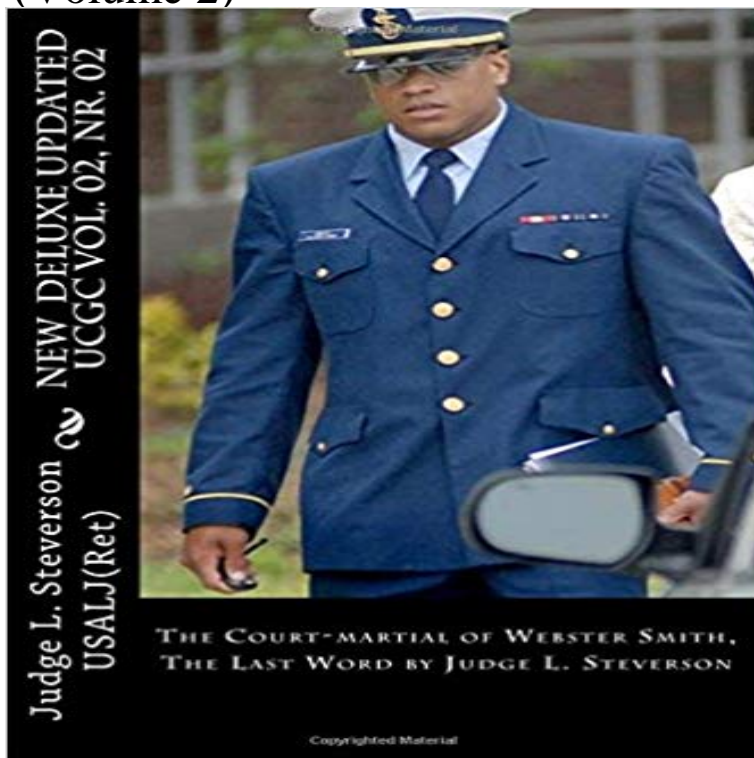


## The Court-martial of Webster Smith, The Last Word, UCGC Vol. 02, Nr. 02: Unrestricted Coast Guard Chronicles, UCGC, Vol. 02, Nr. 02 (Volume 2)



We, as Americans, cherish fairness. We like to believe that people are not punished or unjustly rewarded without justifiable cause. The Webster Smith case was a litmus test for justice in America. Every once in a while a case comes along that puts our humanity as a people, and as Americans, on trial. Everything that we profess to stand for as Americans was on trial. Our sense of justice in America and particularly in the U.S. Military was on trial. This was no ordinary trial. Our humanity was on trial. Our system of justice was on trial. This case dissolved the deceptive facade and exposed certain moral deficiencies in our system of justice. This case alone puts the legitimacy of the entire military justice system at risk. Webster Smith availed himself of every path to justice that we have. He filed an Article 138 Complaint under the UCMJ. He faced the Article 32 Investigation with two lawyers. He asserted all of his Constitutional Criminal Guarantees. He knew and made appropriate use of the Right to Counsel, the Right to Remain Silent, the right to a jury trial, the Right to Confront the witnesses against him, the right call witnesses on his behalf, the right to present evidence favorable to him, the presumption of innocence until his guilt was proven beyond a reasonable doubt, and the right to argue his case before the Jury. His Appellate Counsel, Ronald Machen, was top notch. He became the United States Attorney for the District of Columbia. In April 2015, he left the position and returned to the law firm WilmerHale. Wilmer Cutler Pickering Hale and Dorr has played a leading role in historic events and landmark cases that have shaped the nation and left their mark across the globe. In matters ranging from the Army-McCarthy hearings to the legal defense of civil rights, from the 9/11 Commission to the restoration of the rule of law in apartheid-torn South Africa, their

lawyers have made contributions that have profoundly affected our society. Because the law is still a profession as well as a business, lawyers have special obligations to the administration of justice and the development of the law. Their lawyers are encouraged to meet these obligations through pro bono work. Attorney Machen represented Webster Smith on a pro bono basis. He received no fee. Webster Smith appealed his conviction all the way to the United States Supreme Court. He lost at the Coast Guard Court of Criminal Appeals. He lost at the Court Of Appeals for the Armed Forces of the United States. The U. S. Supreme Court dismissed his appeal without comment. And, on top of the aforesaid, he filed a Complaint of Discrimination, pursuant to Commandant Instruction 5350.11. He had an air tight and fool proof case of disparate treatment. Yet, he lost. He lost because the System was manned by the most incompetent people God ever created. They did not have a clue as to what was going on in their office. The most significant case in the history of the Department of Homeland Security and the Armed Forces of America came to them and they were not capable of processing it properly. On top of everything else, Webster Smith had bad luck. At some juncture along the way, most other people would have won, but not Webster Smith. One has to wonder why. We now see that there is little or no justice in military justice. Any reasonable person who looks at this case or any other high profile military justice case would have to conclude that the Military Justice System is not designed to render justice. It is a system designed to punish. The entire courts-martial system, from Summary Court-martial to General Court-martial, has one specific purpose; that is to punish anyone who commits an offense against the Uniform Code of Military Justice. This Case will serve as a witness to an era in the United States Military and its Service Academies that was ripe with cultural and ethical upheavals.

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