

September 19, 2008

The Honorable Nancy Pelosi
Speaker of the House of Representatives
United States House of Representatives
Washington, DC 20515

The Honorable John Conyers, Jr., Chair
Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

The Honorable John Boehner
Minority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Lamar Smith
Committee on the Judiciary
United States House of Representatives
Washington, DC 20515

Dear House Leaders:

On behalf of the American Bar Association and in the interest in securing justice for members of our armed services, I am writing to bring to your attention the need for prompt floor consideration of H.R. 3174, the Equal Justice for United States Military Personnel Act of 2007. Even though the legislation has bipartisan congressional support, as well as broad support from both military and legal advocacy organizations, it is likely to languish in committee for another Congress if immediate action is not taken.

H.R. 3174 would eliminate an unconscionable inequity in current law by permitting all court-martialed service members who face dismissal, discharge or confinement for a year or more to petition the Supreme Court for discretionary review through writ of certiorari. At present, only a small percentage of service members facing such charges may petition the Supreme Court, whereas the government routinely has the opportunity to petition the Supreme Court for review of adverse courts-martial rulings in any case where the charges are severe enough to make a punitive discharge possible.

The Senate counterpart, S. 2052, was approved by the Senate Judiciary Committee by unanimous voice vote last Thursday, September 11. That date serves as a sober reminder that our military service members regularly place their lives on the line in defense of freedoms that we frequently take for granted. The very least they deserve is to be accorded the same due process rights in uniform that they would enjoy out of uniform. To do otherwise demeans their service and denigrates the democratic ideals for which they risk their lives. To those that argue that permitting equal access to the courts will

create workload problems, we emphatically respond that nothing is more important than the provision of fundamental due process to our service members.

H.R. 3174 is straight-forward, narrowly tailored, remedial legislation that will restore due process and equal treatment under the law to our military service members. Further, its enactment will not result in any increase in direct spending.

It is grossly unfair to deny service members the same right that the government has to seek Supreme Court review. Waiting until a later date to enact this legislation only compounds this inequity. Therefore, as part of the final business during these waning weeks of the 110th Congress, we urge you to use your leadership position and take whatever action is necessary to assure that this legislation is scheduled for a floor vote.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Susman", with a long horizontal flourish extending to the right.

Tom Susman, Director

cc: The Honorable Susan A. Davis
The Honorable Ike Skelton