

Capt Kilian



**IN THE UNITED STATES NAVY-MARINE CORPS
COURT OF CRIMINAL APPEALS**

Before Panel No. 1

UNITED STATES,)	GOVERNMENT MOTION FOR EN BANC
Appellant)	RECONSIDERATION
)	
v.)	
)	Case No. 200800299
Jeffrey R. CHESSANI)	
Lieutenant Colonel (O-5))	
U.S. Marine Corps,)	
Appellee)	

UNITED STATES NAVY-MARINE CORPS
COURT OF CRIMINAL APPEALS
MOTION DENIED

APR 28 2009

**TO THE HONORABLE, THE JUDGES OF THE UNITED STATES
NAVY-MARINE CORPS COURT OF CRIMINAL APPEALS**

Pursuant to Rules 4-7.4 and 6-1 of this Court's Rules of Practice and Procedure, the Government respectfully requests that the Court reconsider its decision in this case *en banc*. The Appellate Government Division received a copy of the Court's opinion on March 17, 2009, and no other court has acquired jurisdiction over this matter.

The Government accepts Panel 1's excellent description of this case's factual background and apprehension of the Government's arguments, but disagrees with the Court's conclusion that "the Government failed to meet its burden of demonstrating, beyond a reasonable doubt, that these proceedings were untainted by the appearance of" unlawful command influence. *United States v. Chessani*, No. 200800299, 2009 CCA LEXIS 84, at *21 (N-M. Ct. Crim. App. Mar. 17, 2009). The Court's conclusion is premised on one critical finding: that the Government