

*(Military Review continued from page 15)*

unconstitutional second trial is dismissal of the conviction on appeal. But if CAAF denies Rice’s petition for review (which is still pending as I write this at the end of April 2019), he can’t appeal any further. And although a federal district court would have jurisdiction over a habeas petition, it’s hard to argue that the military failed to give “full and fair consideration” to his double jeopardy claim; they just got it (badly) wrong. Of course, *Rice* could thereby become a good vehicle for asking the Supreme Court to reconsider *Burns*, but it’s hard to see the Justices being especially interested in doing so; it’s been decades since the Court granted certiorari in a court-martial habeas case.

Another possibility is pushing Congress to close the gap in the Supreme Court’s appellate jurisdiction over CAAF. Some colleagues and I have circulated draft language for Congress to include in the National Defense Authorization Act (the only way to get anything like this enacted these days), but there’s no sign yet that any member is going to support it with the zeal necessary to combat the government’s certain opposition.

All of this is to say, as I’ve said before, that I fear that we neglect the military justice system at our peril. And increasingly, I fear that our neglect of the system translates into neglect of the rights of servicemembers, who truly are, for these purposes, recipients of second-class justice.

## WHY YOUR COURT (OR YOU PERSONALLY) SHOULD INVEST IN A NAACA MEMBERSHIP

STEPHANIE PAINE, Career Chambers Law Clerk  
COURT OF APPEALS OF VIRGINIA

If you’re reading this article and you’re not already a NAACA member, you’ve probably attended at least one NAACA conference or are planning to join us in San Diego this summer from July 23 to 26. You probably know, or at least suspect, how informative and, in the words of one longtime member, “intellectually rejuvenating” our annual conferences are. One of the most unique things about NAACA, and the primary reason we have been able to deliver such well-received educational experiences every year for the past thirteen years, is our organizational independence. We dedicate ourselves exclusively to educating staff attorneys and career law clerks for federal and state appellate courts. Of course, judges and clerks of court need educating too, but as one member explains, “they have their own organizations, and the National Association of Appellate Court Attorneys is ours.”



NAACA’s uniqueness is one of the primary reasons I value membership enough to re-join year after year, even though my court does not cover the cost of my membership. And I am clearly not alone, as you will hear from other attorneys about the value of NAACA membership throughout the course of this article. One longtime state court member, who describes herself as “very happy” regarding that status, shared, “When I joined NAACA, I finally met people who not only understood what I do daily, but also have insights into [how] we can all do it better. We have asked each other for advice and have shared innovations that our own courts have made. And they get my jokes!” Just as importantly, observes Staff Attorney Majel Stein of the U.S. Court of Appeals for the Fourth Circuit, NAACA membership is also “a great way to make professional connections” for “younger attorneys who are just getting started on their career paths.” Majel also shares that she has “made some

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of [her] closest personal friends through NAACA.” Whether you’re a seasoned staff attorney or a younger lawyer still finding your way, we hope you’ll read on and be persuaded regarding the professional and personal value to be found in NAACA membership.

Membership in NAACA provides more than just a substantial discount on annual conference tuition (the amount of your discount depends on the number of years you have been admitted to practice; see the membership fee schedule at [naacaonline.org](http://naacaonline.org)). Along with membership, you will receive subscriptions to NAACA’s electronic listserv, quarterly newsletter, and more frequent judicial news updates. You’ll also have access to NAACA’s closed Facebook page, which offers a greater ability to get to know (dare I say network with?) other appellate court attorneys than provided by conference attendance alone. Because the conference is only three days long, joining NAACA maximizes your ability to connect with fellow members during the other 51 weeks of the year. This in turn makes your time at the conference that much more enjoyable and productive, from both an educational and a networking perspective. Please read on for more details about each of these specific benefits of membership in the words of NAACA’s enthusiastic members!

NAACA’s **Listserv** provides members with the opportunity to seek input from others on a variety of topics affecting our courts, including substantive, procedural, and personnel challenges. Betsy

Goodale, former Chief Staff Attorney of the South Carolina Supreme Court, opines that the listserv is “an extremely valuable resource when researching how other courts deal with change.” She names technology-related issues, such as document storage and e-filing, as topics on which members have asked their appellate court colleagues for advice through the listserv. Another longtime member, Jim Branham, who hails from the smaller state of Hawaii, reports that he has found the listserv invaluable from a management perspective, on topics from handling case backlogs to formulating ethics rules for court attorneys and staff. Other postings on the listserv have inquired about these subjects:



*Staff attorney humor at the T-Shirt Lottery*

- disaster planning and continuity of court operations;
- dealing with “frequent filers” of frivolous appeals;
- handling Anders petitions following the withdrawal of counsel;
- the effectiveness of subscription services for editing legal writing;
- software options for tracking legal issues before the court;
- managing substantive motions practice; and
- addressing cutting-edge issues on a variety

of topics, including civil rights, family law, death penalty, and habeas cases.

If you think your court is facing a novel issue, your colleagues in other state or federal jurisdictions may already have tackled a similar problem and may be willing to share their knowledge with you merely for the asking. And asking is as easy as sending a single email via the listserv to all members at once. Says one chief staff attorney member,

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*Seattle 2015*

“I can always ask a small (even a stupid) question about some arcane legal procedure via the listserv and someone will know the answer!” And for newer appellate court attorneys who know they have found their niche, various state and federal jurisdictions routinely post job openings on the listserv, as well.

The quarterly NAACA News can also significantly enhance your professional development and conference experience. It is chock-full of information about court operations and substantive legal issues, as well as book reviews and “interesting tidbits about people and places.” It routinely includes profiles of both individual members and their courts, which, in addition to being interesting and informative, provide great conversation starters when encountering those members at the conference. The newsletter issues preceding the annual conference are packed with articles on what to see, eat, and drink while in each conference city so that you can make the most of your trip. Before our 2016 conference in Philadelphia, the NAACA News included an article titled “The Cheesesteak: A Primer” (who knew there’s a vegan version, and doesn’t that defeat the purpose?), as well as information on more “upscale” dining locations. The newsletter also offers articles providing substantive continuity with conference sessions. One of the 2016 newsletter issues included observations about Antonin Scalia shortly after his death by Law Professor Kevin Walsh, a former law clerk to the larger-than-life justice; Walsh’s piece was followed by a conference

session providing a retrospective on Justice Scalia’s impact on the Court. A Spring 2017 article about ethical issues facing staff attorneys using social media was followed by a round-table discussion at the 2017 conference regarding related court policies. And the inimitable Erwin Chemerinsky—well-known constitutional law scholar and dean of the law school at the University of California at Berkeley who is a fixture at our annual conferences—is also a regular contributor to the NAACA News.

Augmenting the newsletter are the more frequent Judicial News Updates. These arrive in your e-mail inbox every week or two and contain hyperlinks to a wide variety of articles perfect for reading during lunch or perhaps on your commute. Topics range from humorous to serious and also augment substantive conference sessions. Because I find the subject matter so appealing, I had trouble narrowing my sampling for you to just a few topics. For example, the conference presentations of Alec Karakatsanis, of the Civil Rights Corps, on bail and other criminal justice reforms were followed by Judicial News Update links to articles on related activities in numerous states and localities. After Tulane Professor Gabe Feldman’s well-received presentation on sports law in New Orleans, Update linked to an article regarding a U.S. Supreme Court decision impacting internet sports betting. Following various conference sessions on Fourth Amendment privacy,



*New Orleans 2007*

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Update served us with “Your Apps Know Where You Were Last Night, and They’re Not Keeping It Secret,” as well as “Alexa on the witness stand is going to be killer for privacy.” And after Georgetown Professor Marty Lederman’s session last summer on unusual legal issues arising during the Trump presidency, Update brought us numerous related articles, including “What Trump’s Legal Battles Tell Us About Presidential Power,” a subject to be reprised this summer in San Diego by regular presenter Professor Steven Vladeck. The Updates also often include practical procedural information, such as coverage of the following topics:

- “Judges on Twitter”;
- “ABA Guidance on Judicial Internet Research”;
- “New web platform helps users research meanings of words used in Constitution, Supreme Court opinions”;
- “Here’s How a [Federal Government] Shutdown Could Affect the Courts”;
- “Judges, Clerks Warned to Avoid Partisan Training Programs”;
- “Murder Case With Dueling Transcripts Rejected by Supreme Court.”

Some of my favorite articles compiled by Update discuss etymology and grammar and are just plain funny: tracing the history of the words justice and judge, a “nice . . . rant about hyphens,” and “bovine bust,” a.k.a.

“how a herd of cows helped police catch a suspect on the run.” Update’s articles are helpfully archived in the “members only” area of the website so that you can browse them at your leisure.

Another benefit of membership is NAACA’s Facebook page. It provides a closed environment in which you can keep in touch with fellow NAACA members between conferences, on a more casual basis than provided by the listserv. Discuss books, learn who’s been promoted, talk about where to make reservations for dinner while at the conference, or share your prior experiences in the host city—whatever you’re interested in that might interest your fellow NAACA members!

Last but not least, membership provides you with a vital opportunity to contribute to NAACA’s long-term health as an organization, a key component to the preservation of our annual conferences. In addition to the financial contribution provided by your membership fee, you will have the opportunity to participate in NAACA’s operations. While participation is entirely voluntary, joining a committee or serving on the Board is a great way to get to know other members better. Committees include education, publications, site selection, social, and website. Many of us are introverts, and being able to connect with people through committee work after the conference is over is a terrific way to make next year’s conference that much more enjoyable and productive for yourself and everyone else!

Finally, please consider these more detailed comments I re-

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ceived when asking current members what they would have me share about their NAACA experiences with prospective members. I was not at all surprised by the number of people who used words like “rejuvenating” and “invigorating” to describe how they feel about their membership in NAACA, coupled with regular annual conference attendance and their “wonderful ‘Same Time Next Year’ friendships.”

- “So many smart, thoughtful, interesting people become NAACA members. NAACA has undoubtedly contributed to higher quality output in our appellate courts.”
- “I have made some lifelong friendships; even my shy husband says, ‘I like those people,’ and he eagerly accompanies me to conferences.”
- “I have been a member and attended every NAACA conference . . . , even if I had

to pay my own way. Why? Because of the people. The conference sessions are always great, but . . . the ability to connect with other attorneys working in other courts is the *real* draw for me. . . . Take the opportunity to connect with other attorneys not only about court operations, but dealing with difficult judges, coping with stress, and finding a work/life balance.”

As one staff attorney so aptly put it, “Of all the organizations of which I am a member, [NAACA] is the one [from which] I get the most return for my investment. . . . I encourage everyone who attends the conference to become a member, because membership . . . support[s] a fantastic legal organization whose sole focus is [provid]ing an educational conference geared 100% to court lawyers and the issues they face and . . . doing it in a quality fashion. Whether your court pays for you to attend or you pay, you know you will get your money’s worth and more.”



*The fun continues year round: NAACA holiday lunch 2014*

**PHOTOGRAPH CREDITS**

- ◆ *San Diego scenes: Majel Stein*
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