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## **Navy Lawyer Charles Swift Battles Bush in Guantanamo Bay Case**

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March 28 (Bloomberg) -- He was supposed to arrange a plea bargain. Instead, Navy Lieutenant Commander Charles Swift ended up fighting his commander in chief at the U.S. Supreme Court.

Swift, the military lawyer for Guantanamo Bay inmate Salim Ahmed Hamdan, is asking the high court to block President George W. Bush's plan to use tribunals to try terrorism suspects. The justices will hear arguments from one of Swift's civilian colleagues today in Washington.

The case, which raises questions about presidential wartime powers, might never have made it into court at all without Swift, 44, a 12-year veteran of the Navy's Judge Advocate General's Corps. Swift not only refused to enter a guilty plea, he filed a groundbreaking suit to challenge the tribunals, told a congressional panel that Hamdan had been abused and spent almost a month in Yemen developing his case.

"As a military officer, I deeply respect the president," Swift said in an interview at his northern Virginia office. "But I also believe it's my duty as a military officer to point out when he is wrong."

It's an attitude that more than once put Swift at odds with higher-ranking officers. The conflicts began almost as soon as he was appointed to represent Hamdan in December 2003. The assignment came after the chief tribunal prosecutor requested a defense lawyer to help the Yemeni man plead guilty.

After meeting Hamdan, Swift quickly concluded the man wanted to fight any charges against him. He then had Hamdan sign an authorization letting Swift take the unusual step of serving as a "next friend" for the purpose of a lawsuit on Hamdan's behalf.

### **Coercion Alleged**

Swift last year told a Senate panel he viewed the prosecutor's request to help secure a plea as "a clear attempt to coerce Mr. Hamdan into pleading guilty" by threatening him with the loss of his legal representation.

Air Force Brigadier General Thomas L. Hemingway, who supervises the prosecutor's office, testified at that same hearing that Swift wasn't under any instructions to secure a plea. He said he was "unaware of any threats whatsoever" along the lines alleged by Swift. Hemingway's office declined to comment for this story.

Swift's charge into federal court was just the beginning. When the Defense Department refused to let Swift and his fellow defense attorneys hold a news conference to denounce the tribunal system, he decided he would simply present his case to reporters one-by-one, making himself the public face of the lawsuit.

In 2004, working with Georgetown law professor Neal Katyal and the Seattle-based law firm Perkins Coie, Swift and other tribunal defense lawyers filed a friend-of-the-court brief in a Supreme Court detainee case -- even though they lacked explicit authorization to take that step.

### **'Creativity and Persistence'**

Along the way, Swift and his colleagues filed a demand for the government to charge Hamdan and asked a Senate panel to investigate alleged prisoner abuses and the legality of the tribunal system.

Defense Department officials ``probably assumed that people would do their job, but I don't think they expected the kind of creativity and persistence that the defense team has shown here," said Eugene R. Fidell, a military law expert at Feldesman Tucker Leifer Fidell in Washington.

The sandy-haired, blue-eyed Swift is a NavalAcademy graduate who served as a surface warfare officer for seven years before law school. He returned to the military only because a hiring freeze thwarted his goal of being a Justice Department attorney.

Twelve years later, he calls himself one of the military legal system's biggest fans, saying it does a far better job than the civilian courts of ensuring high-quality representation for impoverished criminal defendants.

``I am incredibly proud of military justice as a whole," Swift said.

### **Food and Chess**

Swift's fellow attorneys credit him with bridging a wide cultural gap to win his client's confidence. Before his first meeting with Hamdan in Guantanamo, Swift secured the services of a first-rate interpreter and took a crash course in Yemeni and Islamic culture.

He won over Hamdan's confidence in part through their mutual interest in chess, using the game to explain the respective roles of the prosecution and defense. In later meetings, he brought Hamdan spicy food to enliven his diet. He spent almost a month in Yemen in 2004, getting to know Hamdan's family and interviewing potential witnesses.

``He has a basic, almost religious, respect for the individual," said Katyal, who will argue Hamdan's case at the high court today. ``At every turn, he just treats his client with such humanity."

### **Former Driver**

The government says Hamdan, a former driver for Osama bin Laden, conspired to wage war against the U.S. and attack civilians.

Swift acknowledges that his advocacy for Hamdan has ruffled a few high-ranking feathers. He has been passed over for promotion once, meaning he will have to leave the service if, as he says he expects, he is passed over a second time later this year. He says he has no misgivings about the effect the case has had on his career.

``If you start thinking about your career over your duty," he said, ``it's time to get out."