



DEPARTMENT OF DEFENSE  
OFFICE OF THE CHIEF DEFENSE COUNSEL  
1600 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1600

29 August 2008

Mr. Scott Fenstermaker  
500<sup>th</sup> Fifth Avenue, 40<sup>th</sup> Floor  
New York, New York 10110

Reference: Your suspension from the civilian counsel pool

Dear Mr. Fenstermaker,

After careful thought and consideration, and in accordance with the discretion granted me by the Regulation for Trial by Military Commissions, I have decided to indefinitely suspend your conditional qualification as a member of the civilian defense counsel pool. I note that you are not a fully qualified member of the counsel pool as your Single Scope Background Investigation is still pending. I also note that you do not have any cases currently pending before a Military Commission.

My decision to suspend your conditional qualification is based upon my professional judgment that your activities throughout the past year, as well as your interactions with certain of my uniformed defense counsel, have been counterproductive to the mission of my office. In addition, I have concluded that you have not been forthright with regard to your representational status of certain detainees, and your continued interference in these cases has made the job more difficult for assigned counsel.

I will periodically review your status and I will brief my successor as to the details of your suspension.

A handwritten signature in black ink, appearing to read "SD", written over the typed name and title.

Steven David  
COL, USAR  
Chief Defense Counsel

