



# Hon. Scott J. Laurer

## Judge, U.S. Court of Appeals for Veterans Claims

by Briana Tellado

Briana Tellado is a legal editor at the Court of Appeals for Veterans Claims. She previously clerked for Hon. Michael A. Toto of the Superior Court of New Jersey and served 10 years in the U.S. Army Judge Advocate General's Corps.

Judge Scott J. Laurer's career—in fact, his entire life—has been shaped by one tenet: service before self.<sup>1</sup> From his childhood home where the older siblings watched out for the younger ones and the parents took care of the grandparents, through his accomplished career as a Navy judge advocate, to his current position as a judge, he has exhibited selfless service.

Born as the third of seven children, he grew up in the historical town of Woodbury, N.J.. In this small town of about 10,000 people,<sup>2</sup> British General Lord Cornwallis planned the advance on Philadelphia. Founded in 1683, the town played a key role in the Battle of Red Bank, where roughly 600 American colonists defeated over 6,000 Hessian troops during the Revolutionary War. His childhood was reminiscent of the *Adventures of Tom Sawyer*, exploring the town's lakes and waterways, fishing, and playing with friends.

In the historical 18-room Victorian house in which he was raised, there was always something going on. Judge Laurer enjoyed growing up in a big family because it allowed him to lead and to follow. His family relied on teamwork, whether it was going to church, to school, or on a family vacation, everything was like a team operation just to get everyone ready. The older children would help with the younger children, so he walked his four younger siblings to and from elementary school. Then, later on, two of his grandparents lived with the family—first his maternal grandfather, and later his paternal grandmother.

His upbringing, focused on family and faith, stressed service before self. He loved his country, his family, and history. His father served in the Navy during the Korean War era, and his uncle served in the Army in Vietnam. His maternal grandfather worked as a claims investigator for the Yellow Cab company in Philadelphia. He worked with attorneys and talked about his work with the family. Woodbury is the seat of Gloucester County, where the courthouse is, so there were always lawyers around town. When he completed a survey in high school to identify his career interests, he filled it out as candidly as he could, and the top profession recommended for him was attorney. The seed was fully planted. It never changed,



and he still really likes being an attorney.

As a college student at Rutgers University-New Brunswick, he majored in political science. He spoke to a Navy recruiter, asking if it would be possible to attend law school part time while serving in the Navy. The recruiter advised that in the Navy, it was unlikely that he would be stationed in one location long enough to complete a law degree. Judge Laurer's first goal was to become a lawyer, so he went to law school instead.

While at Temple University School of Law, he learned for the first time that a person could be an attorney in the Navy. One day, he saw people in military uniforms in the student lounge, who he later learned were judge advocates. In an era before the internet, even the Navy recruiter he spoke to knew little about the Navy Judge Advocate General's (JAG) Corps. This was four years before the *JAG* television show and even before the movie *A Few Good Men* came out, where Tom Cruise played the leading role of a Navy judge advocate defending two Marines accused of murder. In Judge Laurer's second year of law school, he applied to and was accepted into the Navy JAG Corps Student Program.<sup>3</sup> He was commissioned as an officer in the inactive Navy Reserve at the rank of ensign. After law school and passing the bar exam, he would need to serve three years as a judge advocate.

After finishing his second year of law school, he spent most of the summer attending Navy Officer Development School. During his third year of law school, he performed short periods of active duty for training at Naval Base Philadelphia, working at the legal service office and with the staff judge advocate for the commander of the naval base. After graduating from law school, he studied for the New Jersey and Pennsylvania bar exams while working at the naval base again for pay and legal experience. In November, after he learned that he had passed the Pennsylvania bar exam, he was ordered to report to the Naval Justice School in Newport, R.I., in January. There, he spent three months with a class of new judge advocates in the Navy, Marine Corps, and Coast Guard, learning about military justice, civil and administrative law, and legal assistance.

The Navy ordered Judge Laurer to report to Naval Legal Service Office San Francisco for his first duty station. His first position (the Navy calls them billets) would be as a trial counsel (Navy prosecutor). He had been dating his then-girlfriend for two years. He knew he didn't want to go to San Francisco without her, so they got married after he graduated from the Naval Justice School.

So my initial commitment was for three years and I wound up serving 30. My wife would frequently tease me and remind me how I told her I was going to do my three years and get out, but she's been my biggest supporter throughout. She deserves a lot of credit. She had never been west of Pittsburgh before we got married, and we wound up globetrotting all over the place.

Why did he end up serving 10 times longer than he at first agreed to? "The Navy was more interesting, fun, and satisfying than I ever imagined."

For his second billet, he was sent to Naval Special Warfare Group One in Coronado, Calif., where he served as the judge advocate for all the West Coast and Pacific SEAL teams. He deployed on missions and exercises with the SEALs, and his commander sent him through the Army's airborne training at Fort Benning, Ga., where he was the only judge advocate in the class. But why does a Navy lawyer need to know how to jump out of Army airplanes? "The commander sent me not because I was likely to parachute in anywhere, but it was helpful in reviewing a high number of parachute mishap investigations. I learned to understand the terminology and process and procedure for jumping."

About a decade into his career, the Navy selected him to attend civilian postgraduate school. He earned his LL.M. in international and comparative law at George Washington University Law School. It was his first time being a full-time student without having another paid job. "Our daughter was born that year, so it was great both professionally, being able to attend graduate school at the government's expense, then having sort of flexibility as a student in terms of time and how you can spend it."

Throughout his distinguished Navy career, Judge Laurer was stationed overseas in Japan, Germany, and Italy. He learned some of the local phrases in every foreign country he lived in, but he really embraced the chance to study the German language while in Germany. He got to live among civilians in the town his paternal grandparents emigrated from in the early 1920s. After work, he attended German language classes two nights a week at a local *volkshochschule*, which offers evening courses for various age groups in many subjects. He remains conversant in German today.

But being a Navy lawyer wasn't all fun and games. While he got the chance to travel to some exotic locations, he made more than his share of sacrifices. He first experienced challenging living conditions while serving with the Naval Special Warfare Group. During those deployments, he usually stayed in tents in austere conditions. He learned the importance of covering his boot openings with socks when he wasn't wearing them. Otherwise, his foot would be greeted by an uninvited guest when he put his boots on.

Judge Laurer's next deployments were aboard the USS *Blue Ridge*, the command and control flagship for the U.S. Seventh Fleet, which sailed from Japan. His stateroom (what civilians call a bedroom) was located right below the helicopter flight deck. Before that, he considered himself a light sleeper. But it sounded like the crew was always intentionally dragging the chains and dropping the chocks above him. His room on his next seagoing deployment wasn't much better. Aboard the aircraft carrier USS *Abraham Lincoln*, his stateroom was right below one of the carrier's jet blast deflectors. When aircraft took off from the ship, the rumble from the jet blast deflectors would shake his books off the shelf as the aircraft were catapulted into the air. These were his accommodations, on a ship in the Persian Gulf, shortly after 9/11 happened and changed the strike group's scheduled operations. His deployment began in support of Operation Enduring Freedom and Operation Southern Watch. "We were actually on our way home when we were ordered back into the Persian Gulf for Operation Iraqi Freedom." What was scheduled to be a six-month deployment turned into 10. At the time, it was the longest deployment for an aircraft carrier since Vietnam. Judge Laurer and his wife expected him home in January 2003, in time for his son's birth in March. But the mission came first, and his son came early. When he returned to the states in May 2003, his son was almost three months old.

Later, as a senior Navy attorney, he volunteered to go to Afghanistan for a year. He first slept in a tent but was later upgraded to a CHU (containerized housing unit, like a metal shipping container). Because of his international law LL.M. and his experience serving in the Office of the Chairman of the Joint Chief of Staff as deputy legal counsel, where his duties included the international agreements portfolio, he was ultimately assigned as the special legal advisor to the commander of the Interna-



Left: U.S. Navy Captain Laurer (center) accompanying U.S. Marine Corps General John Allen (left), who was then-commander of the ISAF and USFOR-A, during his visit to Bagram Airfield in Afghanistan. Below: USS *Abraham Lincoln* homecoming to Naval Station Everett, Wash., with Judge Laurer's two children.



tional Security Assistance Force and U.S. Forces-Afghanistan, where he drafted and helped negotiate the Bilateral Support Agreement between the United States and Afghanistan.

Other high-profile billets included serving as the special counsel to the chief of Naval Operations and the commanding officer of U.S. Region Legal Service Office for Europe, Africa, and Southwest Asia. For what turned out to be his last active-duty assignment, the Department of Defense detailed him to serve as the deputy legal advisor to the National Security Council at the White House.

The then-deputy national security advisor described the experience as being “like a deployment with a commute.” Judge Laurer agrees. “You’re working typically 12-plus hour days and frequently on weekends.” It was during this assignment that he developed close working relationships with attorneys from the Office of White House Counsel. In the second year of his detail, he was asked whether he was interested in a judicial appointment to the U.S. Court of Appeals for Veterans Claims. “It wasn’t something I was even considering,” he recalls. “I wasn’t seeking a judicial appointment at the time. There wasn’t much explanation other than, ‘Hey, we think you’d be a great fit for this court.’”

In 1988, the Veterans’ Judicial Review Act<sup>4</sup> established the U.S. Court of Veterans Appeals. Located in Washington, D.C., the court was renamed the U.S. Court of Appeals for Veterans Claims (CAVC) in 1999.<sup>5</sup> As a court

of record established under Article I of the U.S. Constitution, the CAVC is part of the U.S. judiciary and is not part of the Department of Veterans Affairs. Out of the court’s nine active judges, six of them are military veterans.<sup>6</sup> The court also has 10 senior judges, four of whom are currently acting in recall status<sup>7</sup> to help with the court’s increasing docket. The judges are appointed for 15-year terms. The CAVC has exclusive jurisdiction to review final decisions from the Board of Veterans’ Appeals concerning veterans benefits, including disability compensation, the G.I. Bill, pensions, burial expenses, survivor benefits, home loans, and eligibility for VA health care. The court also hears petitions for writs of mandamus. Appellants who prevail at the court may file a motion for attorney fees pursuant to the Equal Access to Justice Act.<sup>8</sup> Appellants who do not prevail may appeal to the U.S. Court of Appeals for the Federal Circuit.<sup>9</sup> The Federal Circuit first recognized the CAVC’s authority to certify class actions in 2017,<sup>10</sup> and the CAVC published its new class action rules<sup>11</sup> on Veterans Day in 2020. The court receives nearly 900 appeals per month,<sup>12</sup> on par with the Supreme Court.<sup>13</sup> Unlike the Supreme Court, the CAVC cannot refuse to hear any appeal by denying certiorari.

The first step to becoming a judge was for then-Captain Laurer to complete an interview at the White House before a panel of seven White House and other agency attorneys. The timeline for becoming a federal judge is not set in stone, so he notified the Navy of his plans to retire. “I waited anxiously for the president’s official announcement regarding his intention to nominate me because in the military, you can’t just retire with two weeks’ notice.” After President Trump announced his intention to nominate Judge Laurer for a judicial appointment in late August 2019, his nomination was sent to Congress. In the meantime, he was subjected to what he calls “extreme vetting” through financial disclosure reporting and an FBI background investigation, which was even more detailed than the investigations required for his security clearance. Judge Laurer and the court’s other new judge, Judge Grant Jaquith, attended their combined Senate Veterans’ Affairs Committee hearing on Nov. 6, 2019. Two days later, Captain Laurer retired after serving nearly 30 years on active duty with the U.S. Navy JAG Corps. He was glad to have his parents at his retirement ceremony, especially because his father was himself a Navy veteran.

Although Judge Laurer would not recommend changing careers in the middle of a global pandemic, his priority was assembling a chambers team with experience and knowledge in veterans law. He felt comfortable and knowledgeable about the practice of military law,



and national security law specifically, but had a lot to learn about veterans law. Three of the law clerks he hired have over 18 years of combined veterans law experience. Even the clerk who is a recent law school graduate had completed an internship with the National Veterans Legal Services Program.<sup>14</sup> He also sought a confidential assistant with relevant experience and chose a former confidential assistant to the chief judge of the Court of Appeals for the Armed Forces, another Article I court. His confidential assistant is also a retired Navy chief petty officer legalman (paralegal).

He is grateful to everyone at the CAVC family, who he says made his transition as seamless as possible, and he especially praises the court's development and execution of its continuity of operations plan. Everybody had practiced teleworking with the required technology, so when the time came to work remotely, the court didn't miss a beat. The court has been working remotely for over a year and now holds all oral arguments through Zoom, which are live streamed over YouTube.<sup>15</sup> Teleworking can be challenging at times, he admits. For example, he was holding an oral argument earlier this month when his internet connection quit. The argument was paused for a few minutes until his connection came back. Holding online interviews for his chambers team was also less than ideal, but he credits the court's human resources team for exceeding his expectations in casting a wide net to harvest an exceptionally talented group.

Even though he has been deciding cases at the court since September 2020, Judge Laurer's chambers team met in person for the first time in March 2021, when he swore in one of his law clerks as an attorney. Still, he tries to foster a chambers where everyone can trust each other and collaborate openly. He also welcomes diversity of experience and thought. "Collectively, you can accomplish the mission in a way that you could never do with a group of individuals working on their own." During chambers update meetings, his team often starts off with an icebreaker, such as "Would you rather?" or "Introduce your pet." Judge Laurer also tries to keep himself approachable by not taking himself too seriously, such as when he wore a garish red, white, and green suit to the CAVC virtual holiday party.

He has learned in the Navy that being a good mentor and supervisor means being there for people when they need you,

sincerely caring about them, their careers, and their personal lives. He's also committed to honesty. In the Navy, for example, he told his colleagues that if they wanted to remain competitive for promotion, they had to do certain jobs. "It's not all necessarily the exciting stuff," he said. There are some jobs that people may consider unpopular or less exciting, like working at the Pentagon in a windowless office.

When asked what makes a good judge, Judge Laurer reflected that he strives for legal ability, sound judgment, and composure. He thinks his military leadership experience has translated well into managing chambers because it really is a team or unit. He prides himself on his commitment to continuous improvement, described by the Japanese as *kaizen*, which means never being satisfied with "good enough" because "Our veterans and their family members deserve no less than that." Judge Laurer seeks to reach the right legal decisions. But he's also aware of the timeliness factor. "Justice delayed is justice denied for a lot of these veterans. Particularly in their later years, that becomes a key factor." His favorite part about his new job as a judge? "The mission—making sure that veterans and their families get the benefits that they deserve. It's the thing that makes me excited to get out of bed in the morning." He's also privileged and honored to lead his extremely talented chambers team. Finally, he enjoys the newfound judicial independence. "Coming from the executive branch and the Department of Defense in particular, where it's very structured and hierarchical, to now being one of nine judges, is really cool."

Judge Laurer has participated in several panel decisions of the court, which are decided by three judges, but most of the court's opinions are single-judge memorandum decisions. For his first en banc case, he and Judge Jaquith are sharing writing responsibilities. He is inspired by the writing of Justice Antonin Scalia, who said: "Originalism is the only game in town—the only real, verifiable criterion that can prevent judges from making the Constitution say whatever they think it should say." He also strives to write concisely in a way that every veteran can understand.

Given the number of pro se claimants, and even if they are represented, it's the veteran who is the claimant and we always have to remember to speak

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