

ALASKA STATE LEGISLATURE
HOUSE SPECIAL COMMITTEE ON MILITARY AND VETERANS' AFFAIRS

March 3, 2022

1:03 p.m.

MEMBERS PRESENT

Representative Chris Tuck, Chair
Representative Andi Story
Representative Geran Tarr
Representative Matt Claman
Representative George Rauscher
Representative David Nelson

MEMBERS ABSENT

Representative Laddie Shaw

COMMITTEE CALENDAR

HOUSE JOINT RESOLUTION NO. 35

Supporting the completion of the Northern Rail Extension; supporting the increase in defensive capabilities at Fort Greely, Alaska; and encouraging the development of critical Arctic infrastructure.

- MOVED HJR 35 OUT OF COMMITTEE

CONFIRMATION HEARING(S):

Military Appeals Commission

Tyler Harder - Joint Base Elmendorf Richardson

- CONFIRMATION(S) ADVANCED

PREVIOUS COMMITTEE ACTION

BILL: HJR 35

SHORT TITLE: NORTHERN RAIL EXTENSION

SPONSOR(S): REPRESENTATIVE(S) CRONK

02/22/22	(H)	READ THE FIRST TIME - REFERRALS
02/22/22	(H)	MLV, TRA
03/01/22	(H)	MLV AT 1:00 PM GRUENBERG 120
03/01/22	(H)	Heard & Held
03/01/22	(H)	MINUTE(MLV)

03/03/22

(H)

MLV AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

TYLER HARDER, Appointee

Military Appeals Commission

Joint Base Elmendorf Richardson, Alaska

POSITION STATEMENT: Testified as appointee to the Military Appeals Commission.

ACTION NARRATIVE

[1:03:38 PM](#)

CHAIR CHRIS TUCK called the House Special Committee on Military and Veterans' Affairs meeting to order at 1:03 p.m. Representatives Claman, Story, Nelson, Rauscher, and Tuck were present at the call to order. Representative Tarr arrived as the meeting was in progress.

HJR 35-NORTHERN RAIL EXTENSION

[1:04:17 PM](#)

CHAIR TUCK announced that the first order of business would be HOUSE JOINT RESOLUTION 35, "Supporting the completion of the Northern Rail Extension; supporting the increase in defensive capabilities at Fort Greely, Alaska; and encouraging the development of critical Arctic infrastructure."

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REPRESENTATIVE STORY moved to report HJR 35 out of committee with individual recommendations and the accompanying fiscal notes.

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REPRESENTATIVE CLAMAN objected for the purpose of discussion. He commended the bill's sponsor for getting the support of former Representative Talerico. He withdrew his objection.

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CHAIR TUCK announced that there being no further objection, HJR 35 was reported out of the House Special Committee on Military and Veterans' Affairs.

CONFIRMATION HEARING(S)
Military Appeals Commission

[1:06:06 PM](#)

CHAIR TUCK announced that the final order of business would be the confirmation hearing for the governor's appointee to the Military Appeals Commission.

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TYLER HARDER, Appointee, Military Appeals Commission, shared that he is currently serving as the Senior Civilian Legal Advisor to the Alaska Command, as well as the Alaska North American Aerospace Defense Command (NORAD) Region Commander at Joint-Base Elmendorf Richardson. He further shared that he graduated from law school in Montana; served as a clerk for the Montana Supreme Court; then went on to serve in the Army Judge Advocate General's (JAG) Corps. He stated that he has served 24 years as an Army JAG, and that his first duty assignment was in Fort Wainwright. He said that his last assignment to Alaska was in 2011, followed by his retirement in the state in 2014. He stated his military career is focused on military justice and its criminal process through spending time prosecuting and defending, spending several years as an instructor in the Military Justice Department at the Army JAG Legal Center in Charlottesville, Virginia. He said he is familiar with National Guard structure, including the National Guard Bureau and various state National Guards, especially during service as JAG for Army North. He said that in his current position he has become more familiar with Army Air and National Guard, and that his current experience makes him a good fit to serve on the Military Appeals Commission.

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REPRESENTATIVE RAUSCHER asked for examples of proceedings that are handled by the Military Appeals Commission.

MR. HARDER responded that the structure the state has established is new and was the result of a U.S. Department of Defense (DoD) investigation several years ago, which identified problems with the Alaska State Guard's military justice system. He further explained that it lacked a state uniform code of military justice (UCMJ), and so as a result of investigation, such a code was created; this code required an appellate process so that the military appeals commission would look at appeals

from Alaska Guard adjudicated court martials or non-judicial punishments.

REPRESENTATIVE RAUSCHER asked how many appeals succeed.

MR. HARDER explained that on the active-duty side, there is a military appeals court for each service and a DoD appeals court that looks at appeals that come from service courts; from there, the appeal could go up to the Alaska Supreme Court. He couldn't share the number of cases that have been overturned or sent back for rehearing but acknowledged that there is about 3 to 5 percent overturn rate in some years while other years see about 10 percent in some courts.

REPRESENTATIVE RAUSCHER asked if it costs money to be in appeals court.

MR. HARDER answered that the appellate process is free to the individual that is submitting the appeal.

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REPRESENTATIVE CLAMAN asked if Mr. Harding is currently serving as a legal advisor to the Alaska Command.

MR. HARDER answered yes and explained that the Alaska Command is a Joint Command, commanded by an Air Force General Officer, and falls under Northern Command based in Colorado Springs, Colorado. In response to a follow-up question, he confirmed that he would be new on the commission.

REPRESENTATIVE CLAMAN asked if Mr. Harding has conducted trials and appeals on the military side.

MR. HARDING answered that most of his 24 years of active-duty service were at the trial level. He said that his familiarity with the National Guard is based on his time in Alaska working with the guard, but he has not done state trials.

REPRESENTATIVE CLAMAN asked, if a service member were to appeal a decision to the commission, would that member have a further right to appeal the commission and, if so, what their next steps would be.

MR. HARDER responded that the case could then go to the state courts, so the Alaska Supreme Court could possibly hear the case if there were issues that warrant that level of elevation.

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REPRESENTATIVE TARR asked for confirmation that the commission was created through an executive order by the governor. Further, she asked what has happened in the last year to get the commission functioning.

MR. HARDER answered that outside of e-mail introductions, he has had no direct involvement in the commission in the past year.

REPRESENTATIVE TARR asked if Mr. Harding believes in the mission and the need for the commission.

MR. HARDER stated that the older he gets, the greater his sense of obligation to give back becomes, to share his experiences in some way to make a positive difference. He said that nothing has kept him up at night over the years but the sense of injustice. He said the biggest underlying current to justice is corruption, and that Alaska is a state that is sensitive and aware of rooting out corruption and maintaining systems that are fair and just.

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REPRESENTATIVE NELSON commended Mr. Harder for his service as a JAG.

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REPRESENTATIVE STORY asked Mr. Harder what most qualifies him for the position.

MR. HARDER responded that his experience cannot be narrowed down to one individual example. He said he has had some cases that left a positive impression, while some others have left a negative one, based on how the case was handled or the outcome. He shared an instance where a member of a family left a note thanking him for his work. He said that is what the work boils down to, in that people are paid to do what they do, but it is not about the paycheck, it is about the relationships and the people he can help. He shared that at about the time he retired, a teaching position at Bartlett High School had materialized, which was a job he sought to help students.

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CHAIR TUCK inquired about Mr. Harder's publications, particularly those relating to the No Child Left Behind Act, and asked what his conclusion is on how the state can help families with multiple deployments.

MR. HARDER relayed that it has been a few years since he reviewed the publications. He said he wrote a thesis paper on the topic in college, and that at the time he wanted to write about a topic he was passionate about. He stated that the paper ended up not being related to the Act. He said that with a family of five kids, the toughest part of deploying was leaving family behind. He said that time with family is more important than the time spent at work. He said the rotations in the military were high, slowing down now, but left many families broken, marriages falling part, and kids with disciplinary issues. He stated that DoD tried but failed some of its families and children.

CHAIR TUCK pointed to other writings, namely Developments in Sentencing: Tying Up Loose Ends. He asked what direction Mr. Harder saw sentencing going, and where he would like to see it go.

MR. HARDER answered that a part of the military justice system that impressed him was the latitude the judges were given in sentencing. He stated that he is not a proponent of sentencing guidelines, and that the judges should be empowered to look at the situation on a case-by-case basis, instead of "cookie cut" sentences to criminal acts. He said aggravation and mitigation are the two factors that one considers in sentencing to determine what the appropriate sentence would be, and they should be weighed independently.

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REPRESENTATIVE TARR asked what Mr. Harding's analysis provided for in terms of recommendations. She explained that she's been teaching at the University of Alaska Anchorage since 1999 and has had numerous students who were in military families; they were surprised at the number of multiple deployments and saw the impact and stress on the family.

MR. HARDING responded that he felt strongly about the rotation system. He said there were some members who were on back-to-back deployments, not of their own choosing, and had been "downrange" several times. He said there seemed to be a lot of rhetoric pointing toward supporting families, but when the time

came to submit a request for a waiver or exemption to not going, the needs of the military outweighed the needs of the family. He said that one of the points he made in the book was that a better job needs to be done in looking at the individuals that make up the units rather than just at the unit. He said that the assignments process wasn't synchronized with the deployment process.

REPRESENTATIVE TARR said the committee has heard several bills relating to supporting school enrollment for military families. She thanked Mr. Harder for sharing what he has learned.

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The committee took a brief at-ease at 1:33 p.m.

[1:33:51 PM](#)

CHAIR TUCK opened public testimony on the Appointment of Tyler Harder to the Military Appeals Commission. After ascertaining there was no one who wished to testify, he closed public testimony.

[1:34:11 PM](#)

REPRESENTATIVE TARR stated that the House Special Committee on Military and Veterans' Affairs has reviewed the qualifications of the governor's appointees and recommends that the following name be forwarded to a joint session for consideration: Tyler Harder, Military Appeals Commission. She said that signing the report regarding appointments to boards and commissions in no way reflects an individual member's approval or disapproval of the appointee, and the nomination is merely forwarded to the full legislature for confirmation or rejection.

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ADJOURNMENT

There being no further business before the committee, the House Special Committee on Military and Veterans' Affairs meeting was adjourned at 1:35 p.m.