

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 00-5085**

**September Term, 2000**

John R. Cothran,

Filed On: March 27, 2001

[585695]

Appellant

v.

John H. Dalton, Secretary of the Navy,

Appellee

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Appeal from the United States District Court  
for the District of Columbia  
(No. 98cv01454)

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Before: GINSBURG, RANDOLPH, and ROGERS, *Circuit Judges*.

## J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs and arguments of the parties. The court is satisfied that the issues presented occasion no need for an opinion. See D.C. Cir. Rule 36(b). It is

ORDERED AND ADJUDGED that the district court's order filed December 20, 1999 be affirmed substantially for the reasons stated by the district court. Although the district court erred in suggesting that Cothran waived his affirmative defense before the summary court martial, summary judgment in favor of the Government was nonetheless correct because the Judge Advocate General had adequately considered and addressed Cothran's defense.

The clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. See D.C. Cir. Rule 41.

*Per Curiam*

**FOR THE COURT:**

Mark J. Langer, Clerk