

**Statement by Professor Geoffrey C. Hazard, Jr.,  
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In my opinion Judge Roberts could have decided to recuse himself in the Hamdan case but was not obliged to. Hence, it was a matter of professional judgment. These situations, where a judge is being considered for some other or additional possibility, are fairly common these days, hence part of the environment. Also, recusing would require some kind of explanation, which could lead to leaks, which could embarrass other government procedures, such as background checks. I believe that it is reasonable to say that he should have recused himself, but also reasonable for him to have concluded that it was not obligatory.